

No. 10488

United States
Circuit Court of Appeals
For the Ninth Circuit.

GEORGE ROBERT GUTMAN,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

Transcript of Record

Upon Appeal from the District Court of the United States
for the Northern District of California,
Southern Division

FILED

DEC 15 1943

PAUL P. O'BRIEN,
CLERK

No. 10488

United States
Circuit Court of Appeals

For the Ninth Circuit.

GEORGE ROBERT GUTMAN,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

Transcript of Record

Upon Appeal from the District Court of the United States
for the Northern District of California,
Southern Division

INDEX

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

Page

Appeal:

Certificate of Clerk to Transcript of Record on	130
Notice of	7
Order for Transfer of Original Exhibits on	123
Praecipe	129
Statement of Points and Designation of Record to be Printed on (CCA)	132
Stipulation re Exhibits on	122
Assignments of Error	124
Bill of Exceptions	9
Exceptions of Defendant	74, 108, 117, 118
Exhibits for Defendant:	
A—Letter of Feb. 27, 1943, George Robert Gutman to State Director of Selective Service, enclosing letter to Local Board No. 86, San Francisco and Various Affidavits.	81
B—Certificate of Ordination dated Sept. 8, 1942	78

Index	Page
Exhibits for Defendant—(Continued):	
C—Affidavit, June 14, 1943, “To Whom it May Concern” signed by J. Sullivan, Superintendent of Evangelists	94
D—Copy of Opinion 14 of the Director of Selective Service	99
E—Selective Service Regulation (2d edition) Part 625 — Appearance before Local Board	104
Exhibits for United States:	
1—Registration Card of George Robert Gutman	11
2—Selective Service Questionnaire ..	13
3—Letter, addressed to Local Draft Board No. 86, San Francisco signed by George Robert Gutman.	36
4—Letter, Nov. 20, 1942, George R. Gutman to Local Draft Board No. 86, San Francisco	44
5—Letter, Dec. 15, 1942, George Robert Gutman to Local Draft Board No. 86, San Francisco	46
6—Letter, Dec. 20, 1942, George Robert Gutman to Local Draft Board No. 86, San Francisco	47

Index

Page

Exhibits for United States—(Continued):

- 7—Letter, Dec. 21, 1942, George B. Gillin, Chairman, Draft Board No. 86 to State Director of Selective Service System 50
- 8—Letter, Feb. 1, 1943, State Director of Selective Service to Appeal Board No. 8, San Francisco 51
- 9—Order to Report for Induction, March 4, 1943 52
- 10—Copy of Letter, Mar. 16, 1943, Local Board No. 86 to State Director of Selective Service System 55
- 11—Copy of Letter, Apr. 9, 1943, Simon P. Dunkle, Lt. Colonel, Infantry Camp Operations Division to State Director of Selective Service and letter of April 16, 1943, State Director of Selective Service to Local Board No. 86, San Francisco 56
- 12—Order to Report for Induction, May 1, 1943 59
- 13—Notice of Delinquency, May 15, 1943 61

Index	Page
Exhibits for United States—(Continued):	
14—Letter, May 18, 1943, George Robert Gutman to Local Board No. 86, San Francisco	63
15—Statement of George Robert Gutman "To Whom it May Concern"	69
Instructions to the Jury	109
Proposed Instructions:	
Defendant's	117
United States	111
Witnesses for Defendant:	
Easter, C. D.	
—direct	76
—cross	76
Gutman, George Robert	
—direct	77, 92
—cross	97
Hegberg, Mrs. Pauline	
—direct	99
—redirect	104
Reusch, Verne G.	
—direct	74
—cross	75

Index**Page****Witnesses for United States:****Gillin, George B.**

—direct	66
—cross	66
—redirect	67

Hegberg, Mrs. Pauline

—direct	10
—cross	65

Moskowitz, Maurice

—direct	67
-------------------	----

O'Brien, Thomas E.

—direct	68
-------------------	----

Vlautin, P. Paul, Sr.

—direct	68
-------------------	----

Certificate of Clerk to Transcript of Record on Appeal	130
---	-----

Designation of Parts to be Printed, Statement of Points and	132
--	-----

Indictment	2
----------------------	---

Judgment and Sentence	6
---------------------------------	---

Minute Orders:

June 10, 1943—Plea of Not Guilty	4
--	---

June 19, 1943—Judgment and Sentence	6
---	---

Names and Addresses of Attorneys of Record	1
--	---

Index	Page
Notice of Appeal	7
Order for Transfer of Original Exhibits to CCA	123
Order Settling and Allowing Bill of Exceptions, etc.	121
Plea of Not Guilt	4
Praecipe	129
Statement of Points and Designation of Parts of Record to be Printed (CCA)	132
Stipulation re Bill of Exceptions	120
Stipulation re Exhibits	122
Verdict—Guilty	5

NAMES AND ADDRESSES OF ATTORNEYS.

MR. CLARENCE E. RUST,

537 San Pablo Avenue,
Oakland, California.

Attorney for Defendant and Appellant.

MR. FRANK J. HENNESSY,

United States Attorney,
Northern District of California.

MR. JOSEPH KARESH,

Assistant United States Attorney,
Northern District of California.
Post Office Building,
San Francisco, California.

Attorneys for Plaintiff and Appellee.

In the Southern Division of the United States District Court for the Northern Division of California.

INDICTMENT

(Section 11, Selective Service Training and Service Act of 1940, As Amended, 50 USCA, Section 311).

In the March 1943 term of said Division of said District Court the Grand Jurors thereof on their oaths present:

That

GEORGE ROBERT GUTMAN,

(whose full and true name is, other than hereinabove stated, to said Grand Jurors unknown, hereinafter called "said defendant"), being a male citizen between the ages of eighteen and forty-five years, residing in the United States and under the duty to present himself for and submit to registration under the provisions of the "Selective Training and Service Act of 1940, As Amended", and thereafter to comply with the rules and regulations of said Act, As Amended, and having in pursuance of said Act, As Amended, and the rules and regulations made pursuant thereto, become a registrant of Local Board No. 86 of the Selective Service System, in the City and County of San Francisco, California, which said Local Board No. 86 was duly appointed and acting for the area of which the said defendant is a registrant, did, on or about the 14th day of May, 1943, at the City and County of San Francisco, in the Southern Divi-

sion of the Northern District of California, and within the jurisdiction of this Court, knowingly and feloniously fail and neglect to perform such duty, in that he, the said defendant, did then and there knowingly and feloniously fail and neglect to comply with the order of his said Local [1*] Board No. 86, which had theretofore classified him in Class I-A, to report for induction into the Land or Naval Forces of the United States, as provided in the said Selective Training and Service Act of 1940, As Amended, and the rules and regulations made pursuant thereto.

FRANK J. HENNESSY

United States Attorney.

Approved as to form:

R. B. McM.

[Endorsed]: Presented in Open Court and Ordered Filed May, 27 1943. Walter B. Maling, Clerk. By J. P. Welsh, Deputy Clerk. [2]

*Page numbering appearing at foot of page of original, certified Transcript of Record.

District Court of the United States
Northern District of California
Southern Division

At a Stated Term of the Southern Division of the United States District Court for the Northern District of California, held at the Court Room thereof, in the City and County of San Francisco, on Thursday the 10th day of June, in the year of our Lord one thousand nine hundred and forty-three.

Present: The Honorable Michael J. Roche, District Judge.

[Title of Cause.]

No. 28001-R.

DEFENDANT'S PLEA OF NOT GUILTY
ENTERED

This case came on regularly this day for entry of the plea of the defendant, George Robert Gutman. The defendant was present with Wm. Shea, Esq., his Attorney. Joseph Karesh, Esq., Assistant United States Attorney, was present for and on behalf of the United States.

The defendant was called to plead and thereupon said defendant entered a plea of "Not Guilty" to the Indictment filed herein against him, which said plea was ordered entered.

After hearing the Attorneys, it is ordered that the trial of this case be and the same is hereby set for June 17, 1943. (Jury) [3]

In the Southern Division of the United States
District Court For the Northern District of
California. First Division.

No. 28001-R

THE UNITED STATES OF AMERICA

vs.

GEORGE ROBERT GUTMAN

VERDICT

We, the Jury, find as to the defendant at the
bar as follows: Guilty as charged.

R. M. FRAIZER

Foreman.

[Endorsed]: Filed June 18, 1943. [4]

District Court of the United States
Northern District of California
Southern Division

At a Stated Term of the Southern Division of
the United States District Court for the Northern
District of California, held at the Court Room
thereof, in the City and County of San Francisco,
on Saturday the 19th day of June, in the year of
our Lord one thousand nine hundred and forty-
three.

Present: The Honorable Michael J. Roche, Dis-
trict Judge.

No. 28001-R.

UNITED STATES OF AMERICA,

vs.

GEORGE ROBERT GUTMAN.

JUDGMENT AND SENTENCE

This case came on regularly this day for the pronouncing of judgment upon the defendant, George Robert Gutman. The defendant was present in the custody of the United States Marshal and with Wm. Shea, Esq., his Attorney. Joseph Karesh, Esq., Assistant United States Attorney, was present for and on behalf of the United States.

The defendant was called for judgment and after hearing the Attorneys and the defendant, Mr. Shea offered a certain exhibit which was marked Defendant's Exhibit "E" for identification; and thereupon, said defendant having been now asked whether he has anything to say why judgment should not be pronounced against him, and no sufficient cause to the contrary being shown or appearing to the Court,

It Is By The Court

Ordered and Adjudged that the defendant George Robert Gutman, for the offense of which he stands convicted on the verdict of the jury of guilty of the offense charged in the [5] Indictment filed herein against him, be and he is hereby committed to the custody of the Attorney General or his authorized

representative for imprisonment for the period of Three (3) Years.

Ordered that a judgment be entered herein accordingly.

It Is Further Ordered that the Clerk of this Court deliver a certified copy of the judgment and commitment to the United States Marshal or other qualified officer and that the same shall serve as the commitment herein.

The Court recommends commitment to a U. S. Penitentiary. [6]

[Title of Court and Cause.]

NOTICE OF APPEAL.

Name and address of appellant

George Robert Gutman, 1892 Fell Street, San Francisco, California.

Name and address of appellant's attorney

Clarence E. Rust, 5837 San Pablo Ave., Oakland, California.

Offense: Wilful failure and refusal to report for induction in violation of act of Congress approved September 16, 1940 and known as "Selective Training and Service Act of 1940, as amended, Section 11, (50 U.S.C.A. 311).

Date of judgment

June 19, 1943.

Brief description of judgment or sentence

The defendant was sentenced by the above en-

titled Court to a total of three years imprisonment.

Name of prison where now confined, if not on bail
San Francisco County Jail.

I, the above named appellant, hereby appeal to the Circuit Court of Appeals for the Ninth Circuit from the judgment above-mentioned on the grounds set forth below.

(Signed) GEORGE ROBERT GUTMAN
Appellant.

Dated June 23, 1943. [7]

GROUND OF APPEAL:

1—The insufficiency of the evidence as a matter of law to sustain the jury's verdict that the defendant was guilty of the offense charged.

2—The error of the court in denying defendant's motion for a directed verdict of not guilty on the ground of the insufficiency of the evidence to sustain a conviction as a matter of law, made at the conclusion of the testimony offered on behalf of the United States.

3—The error of the court in denying defendant's motion for a directed verdict of not guilty on the ground of the insufficiency of the evidence to sustain a conviction as a matter of law, made at the conclusion of all the testimony.

4—The error of the trial court in failing and refusing to give certain proposed instructions to the jury requested by defendant.

5—The error of the trial court in giving certain instructions to the jury, and particularly to Government's proposed instruction 3, 4, 5 and 6.

Dated: June 23, 1943.

CLARENCE E. RUST

Attorney for appellant.

Receipt of a copy of foregoing Notice of Appeal and Grounds of Appeal, admitted this 23rd day of June, 1943.

FRANK J. HENNESSY

United States Attorney

By T. SOLOMON

[Endorsed]: Filed June 23, 1943. [8]

[Title of District Court and Cause.]

BILL OF EXCEPTIONS

Be It Remembered: That the Grand Jury of the United States, in and for the Northern District of California, Southern Division, for the March, 1943 term of said Division, returned and there was filed in the Court, its indictment against the defendant and appellant in the above-entitled cause charging him with violation of the Selective Training and Service Act of 1940 (50 U.S.C.A. 311); that thereafter said defendant appeared in said Court and was duly arraigned upon said indictment and entered his plea of not guilty to the charge therein contained:

That thereafter and on June 17, 1943, the said cause came on regularly for and proceeded to trial before a jury in the above entitled Court, Hon. Michael J. Roche, United States District Judge, presiding, the United States being represented by Frank J. Hennessy, United States Attorney and Joseph Karesh, Assistant United States Attorney, and defendant being personally present in Court and represented by William Shea, his attorney; and thereupon the following proceedings were had:

MRS. PAULINE HEGBERG

called as a witness on behalf of the United States, and being [9] duly sworn, testified as follows:

I am chief clerk of Selective Service Board Number 86, San Francisco, California, and have the custody of the records of this Board and have charge of the correspondence. The defendant, George Robert Gutman is a registrant with this Board.

(The registration card of defendant was here identified by the witness and said card was admitted in evidence and marked U. S. Exhibit No. 1)

REGISTRATION CARD (Men born on or after January 1, 1922 and on or before June 30, 1924)

SERIAL NUMBER	1. NAME (Print)			ORDER NUMBER
N 321	George	Robert	Gutman	11866
<small>(First) (Middle) (Last)</small>				
2. PLACE OF RESIDENCE (Print)				
1892 Fell St.		San Francisco		Calif.
<small>(Number and street) (Town, township, village, or city) (County) (State)</small>				
(THE PLACE OF RESIDENCE GIVEN ON THE LINE ABOVE WILL DETERMINE LOCAL BOARD JURISDICTION; LINE 2 OF REGISTRATION CERTIFICATE WILL BE IDENTICAL)				
3. MAILING ADDRESS				
Same				
<small>(Mailing address if other than place indicated on line 2. If same insert word same)</small>				
4. TELEPHONE		5. AGE IN YEARS		6. PLACE OF BIRTH
Skyline		18		Bakersfield
3431		DATE OF BIRTH		Calif.
<small>(Exchange) (Number)</small>		<small>(Mo.) (Day) (Yr.)</small>		<small>(Town or county) (State or country)</small>
7. NAME AND ADDRESS OF PERSON WHO WILL ALWAYS KNOW YOUR ADDRESS				
Lyda Gutman 1892 Fell St. San Francisco				
8. EMPLOYER'S NAME AND ADDRESS				
Jehovah Witness				
9. PLACE OF EMPLOYMENT OR BUSINESS				
117 Adams St. Brooklyn N.Y.				
<small>(Number and street or R. F. D. number) (Town) (County) (State)</small>				
I AFFIRM THAT I HAVE VERIFIED ABOVE ANSWERS AND THAT THEY ARE TRUE.				
D. S. S. Form 1 (Revised 6-1-42)		Signed <u>George R. Gutman</u> <small>(over) (Registrant's signature)</small>		

REGISTRAR'S REPORT

DESCRIPTION OF REGISTRANT									
RACE		HEIGHT (Feet-Inches)	WEIGHT (Approx.)	COMPLEXION					
<input checked="" type="checkbox"/> White <input type="checkbox"/> Negro <input type="checkbox"/> Oriental <input type="checkbox"/> Indian <input type="checkbox"/> Filipino	<input checked="" type="checkbox"/>	6'5"	175	HAIR	COMPLEXION				
		EYES	HAIR	Sallow					
		Blue	Blonde	Light					
		Gray	Red	Ruddy					
		Hazel	Brown	Dark					
Brown	Black	Freckled							
Black	Gray	Light brown							
		Dark brown							
		Black							
U. S. RES. OF N. D. CAL.									
Other obvious physical characteristics that will aid in identification Scar between eyes <u>old</u> EX No. 1									
I certify that my answers are true, that my person described has read to him his own answers; that I have witnessed his signature or affix and that all of his answers of which I have knowledge are true. <u>WALTER F. WALKER, CLERK</u>									
BY <u>[Signature]</u> DEPUTY CLERK Signed <u>W. R. Bent</u> <small>(Signature of registrar)</small>									
Registrar for Local Board Local Board No. 86 Date of registration <u>San Francisco</u> <u>Calif.</u> <u>075</u>									
(The stamp of the Local Board having jurisdiction of the registrant shall be placed in the above space) 1444 Haight Street San Francisco, California									

I hereby certify that this is a true copy of the original registration card D.S.S. Form 1

By
Clerk

Pauline Hegberg

(Testimony of Mrs. Pauline Hegberg.)

The registrant, defendant here, filed a selective service questionnaire, DSS Form 40, with the Board.

(The questionnaire was here identified by the witness and said questionnaire was admitted in evidence and marked U. S. Exhibit No. 2)

U. S. EXHIBIT No. 2

Selective Service Questionnaire
Order No. M 11866.

Date of mailing September 1, 1942.

[Stamp of Local Board]: Local Board No. 86—
91 075 086. Sep 1, 1942. 1444 Haight Street, San
Francisco, California.

Name: (First) George (Middle) Robert (Last)
Gutman.

Address (Number and street or R. F. D. route)
1892 Fell Street, (City or Town) San Francisco
(County) S. F. (State) California.

Notice to Registrant

You are required by the Selective Service Regulations to fill out this Questionnaire truthfully and to return it to this local board on or before the date shown below. Willful failure to do so is punishable by fine and imprisonment.

This Questionnaire Must Be Returned on or Before September 11, 1942.

P. PAUL VLAUTIN,
Member of Local Board.

(Testimony of Mrs. Pauline Hegberg.)

U. S. Exhibit No. 2—(Continued.)

(The above items are to be filled in by the local board before the Questionnaire is mailed to the registrant.)

Instructions

This Questionnaire is intended to furnish the local board with information to enable it to classify you. You will receive notice from your local board of your classification.

Oaths required in the Questionnaire may be administered by any civil officer authorized to administer oaths generally, any commissioned officer of the land or naval forces assigned for duty with the Selective Service System, any member or clerk of a local board or board of appeal, any government appeal agent or associate government appeal agent, any member or associate member of an advisory board for registrants, any postmaster, acting postmaster or assistant postmaster.

Advisory boards for registrants are organized to assist registrants in completing their Questionnaires. No charge will be made for this service. Information as to the location of a member of the advisory board for registrants who will assist in completing this form may be obtained from the local board office. If there is no advisory board member available, you must nevertheless complete your Questionnaire.

If the registrant is an inmate of an institution and is unable to complete the Questionnaire, the executive head of the institution shall communicate these facts immediately to the local board.

(Testimony of Mrs. Pauline Hegberg.)

U. S. Exhibit No. 2—(Continued.)

1. Make no alterations in the printed matter in this Questionnaire.

2. All spaces in this Questionnaire that apply to registrants must be filled in with the proper words.

3. If you furnish additional information or affidavits with your Questionnaire, attach the same securely to it.

4. If you are already in the active military or naval service, obtain a certificate to that effect from your commanding officer and attach same to your Questionnaire.

5. After this Questionnaire has been returned, report to your local board at once any change of address or any new fact which may affect your classification.

Statements in this Questionnaire marked (Confidential) are for information only of the officials duly authorized under the regulations.

Use Ink or Typewriter in Filling Out This Form
D. S. S. Form 40

(Revised Jan. 12, 1942)

[Stamped]: Local Board No. 86—San Francisco County—91 075 086. Sep 11 1942. 1444 Haight Street, San Francisco, California. (1)

Statements of the Registrant

Series I.—Identification

Instructions.—Every registrant shall fill in all statements in this series.

(Testimony of Mrs. Pauline Hegberg.)

U. S. Exhibit No. 2—(Continued.)

1. My name is (print) (First name) George (Middle name) Robert (Last name) Gutman.

2. In addition to the name given above, I have also been known by the name or names of (If none, write "None") none.

3. My residence now is (Number and street or R. F. D. route) 1892 Fell Street, (Town—[City, town, or village]) San Francisco, (County) San Francisco, (State) California.

4. My telephone number now is (Town) San Francisco, (Exchange) SKYline (Number) 3431. (If you have no phone, write "None").

5. My Social Security number is (If none, write "None") none.

6. I was 18 years of age on my last birthday.

Series II.—Physical Condition (Confidential)

Instructions.—Every registrant shall fill in all statements in this series.

1. To the best of my knowledge, I (have, have no) have no physical or mental defects or diseases. If so, they are (List defects or diseases here).

2. I (am, am not) am not an inmate of an institution. If so, its name is (Name of hospital, prison, or other institution) and it is located at (Give address).

Series III.—Education

Instructions.—Every registrant shall fill in all statements in this series.

1. I have completed (Number) 6 years of elementary school and (Number) 4 years of high school.

(Testimony of Mrs. Pauline Hegberg.)

U. S. Exhibit No. 2—(Continued.)

2. I have had the following schooling other than elementary and high school (if none, write "None"):

Name of Vocational School, College, or University None.

Course of study (blank).

Length of Time Attended (blank).

3. I (can, cannot) can read and write the English language.

Series IV.—Present Occupation or Activity

Instructions.—Every registrant shall fill in No. 1 of this series; every registrant now at work shall fill in No. 2; every registrant now unemployed shall answer No. 3; and every registrant who is now a student, whether or not he also has a job, shall fill in No. 4.

1. (Put an X in one box) I am now ☒ working at the job described under No. 2 below. ☐ unemployed for the reasons and under the circumstances described in my answer to No. 3 below. ☐ a student pursuing the course of study described under No. 4 below.

2. (a) The job I am now working at is (give full title, for example: Construction draftsman, turret-lathe operator, stationary engineer, farm laborer, prosecuting attorney, physics teacher, policeman, marriage-license clerk, etc.): Minister of the Gospel.

(b) I do the following kind of work in my present job (be specific—give a brief statement of your

(Testimony of Mrs. Pauline Hegberg.)

U. S. Exhibit No. 2—(Continued.)

duties): Conduct Bible studies and also organize new churches.

(c) I have had 3 years experience in this kind of work.

✓ (d) My average (weekly, monthly, annual) monthly earnings in my present job are ✓ \$20.00. (Confidential). (2)

Series IV.—Present Occupation or Activity.—

Continued

(e) In my present job, I am—(Put an X in one box)

☐ a regular or permanent employee, working for salary, wages, commission, or other compensation; I ✓ have worked 3 years in my present job, and expect to continue indefinitely in it.

☐ a temporary or occasional employee; I expect that my present job will end about (Date).

☐ an apprentice under a written or oral agreement with my employer, which expires (Date).

☐ an independent worker, working on my own account, not hired by anyone, and not hiring any help.

☐ working for my father or for the head of my family, but receiving no pay.

☐ an employer or proprietor hiring..... paid workers.

(f) I (am, am not) am not now employed in national defense work.

(g) My employer is: (Name of organization or proprietor, not foreman or supervisor) Watchtower

(Testimony of Mrs. Pauline Hegberg.)

U. S. Exhibit No. 2—(Continued.)

Bible and Tract Society, (Address of place of employment—street or R. F. D. route, city, and State) 117 Adams Street, Brooklyn, New York, whose business is (For example: Farm, airplane engine factory, retail food store, W. P. A.) Publishers for Jehovah's witnesses.

(h) Other business or work in which I am now engaged is (If none, write "None") none.

Instructions.—If your employer believes that you are a necessary man in a necessary occupation, it is his duty to fill out Form 42A requesting your deferment. You may also attach to this page any further statement by yourself which you think the local board should consider in determining your classification. Such statement will then become a part of the Questionnaire.

3. If you are not now working, attach to this page a statement (a) giving the reasons for your unemployment, when it began, and when you expect to be able to resume your work, and (b) supplying substantially the same information regarding your last job as is required in Items 2 (a) to 2 (f) above.

4. (a) (If a student) I am majoring in.....
.....preparing for (Occupation or profession).....at (Name and address of school or college)

(b) I expect to complete this training on (Date).

(c) I (do, do not) intend to take an exami-

(Testimony of Mrs. Pauline Hegberg.)

U. S. Exhibit No. 2—(Continued.)

nation for license in (Profession). Date of examination.....

Instructions.—A student who believes that he should be placed in Class II because preparing for a necessary occupation should see that the head of his school files with the local board the necessary supporting evidence.

Series V.—Agricultural Occupations

Instructions.—Every registrant who works on a farm shall fill in this series, in addition to filling in Series IV and VI.

1. I work on or operate a farm as—(Put an X in the correct box)

☐ sole owner of the farm. ☐ joint owner with
(Name) (Address)

☐ hired manager ☐ cash tenant or renter
☐ standing rent tenant ☐ share cropper ☐ share
tenant.

My agreement (if any) expires (Month) (Day)
(Year).

☐ wage hand (hired man). ☐ unpaid family
worker.

2. I have been engaged in farm work for
years.

3. I (do, do not) live on the farm with which I
am connected.

4. I (am, am not) actually and personally re-

(Testimony of Mrs. Pauline Hegberg.)

U. S. Exhibit No. 2—(Continued.)

sponsible for the operation of the farm on which I work.

5. The principal crops and livestock of the farm I operate or work on are:

Name of Crops (blank).

Acres Devoted to Each (blank).

Kinds of Livestock (blank).

Number of Each Now on Farm (blank).

6. The number of people who work on this farm is (Number) of whom (Number) are hired hands.

7. Other facts which I consider necessary to present fairly the farming or farm work I have described and my connection with it as a ground for classification are (if none, write "None") (blank).

(3)

Series VI.—Occupational Experience, Qualifications, and Preferences

Instructions.—Every registrant shall fill in items 1, 2, and 3 in this series. Include in item 1 any formal apprenticeship served. Items 4 and 5 are optional and are designed to aid the Reemployment Division in restoring you to civilian employment after completion of military service.

1. I have also worked at the following occupations other than my present job, during the past 5 years: (If none, write "None.")

Occupation (Give full title, for example, turret-lathe operator, farmer, etc.) Student.

Kind of Work Done (Be specific—give a brief statement of your duties) (blank).

(Testimony of Mrs. Pauline Hegberg.)

U. S. Exhibit No. 2—(Continued.)

Years Worked From— 1932 To— 1939.

2. My usual occupation, or the occupation for which I am best fitted, is Minister of the Gospel.

3. I (am, am not) am not licensed in a trade or profession; if so, I am licensed as (blank). (For example: Marine pilot, physician, aviator, stationary engineer) (blank).

4. I have worked in the following State or States during the past 2 years Calif., Utah, Kansas, Missouri, Ohio, Mich.

5. I prefer the following kind of work: Present occupation.

I (would, would not) would not consider accepting a job which would require me to move away from my present home.

Series VII.—Family Status and Dependents (Confidential except as to names and addresses of claimed dependants).

Instructions.—Every registrant shall fill in the statements numbered 1 and 2 in this series.

1. I am (Put an X in the correct box)

☒ single.

☐ widower.

☐ divorced.

☐ married;

I (do, do not) live with my wife; if not, her address is.....; we were married

at (Place) on (Date).

2. (a) I have (Number) children under 18 years of age.

(Testimony of Mrs. Pauline Hegberg.)

U. S. Exhibit No. 2—(Continued.)

(b) Of these children (Number) live with me in my home.

Instructions.—Every registrant who lives in a family group and contributes to the support of that group shall fill in statement No. 3. "Family group" as used in this statement means two or more persons related by blood, marriage, or adoption, who live together and who pool all or a substantial part of their individual incomes for their joint support. (Such a group may not always include everyone who lives in the same house or eats at the same table. For example, when a registrant and his wife and children share a house with other relatives but do not share the income of those other relatives, the family group to be listed here would include only the registrant and his wife and children.)

The information here given is intended to describe only the economic situation of the family group as it now exists and is not intended to suggest that by altering their present domestic arrangements, present dependents of the registrant might obtain support from other persons who are not now supporting them.

3. (a) The following is a list of all members of the family group in which I live (list yourself first):

Name (Name of registrant) George Robert Gutman.

Sex Male

Age last birthday 18.

(Testimony of Mrs. Pauline Hegberg.)

U. S. Exhibit No. 2—(Continued.)

Relationship to me Self.

Date I began to contribute to this person's support. (If not contributing, write "N. C.'). x x x x x

Amount this person earned by work during past 12 months \$240.00.

Lyda Gutman (Mother). Female. 52. Mother. N. C. \$240.00.

(b) I contributed \$..... during the last 12 months to the support of the above-listed family group.

(c) In addition to the earnings shown in table 3 (a), only the only the following other income was received by members of this family group during the past 12 months. (State the nature and source of every item of income whether in cash or other things of value. Include income from property, relief payments, and contributions from persons outside this group. Give name, address, relationship, and age of each person outside the family group making such (4) contributions:.....)

Instructions.—Every registrant who contributes to the support of one or more persons who are not members of the family group listed above shall fill in statement No. 4.

4. (a) The following persons who are not members of the family group listed above depend wholly or partly for support on what I earn by my work in my business, occupation, or employment; they had no other sources of income during the past 12 months, except as stated below:

[Blank form not filled in.]

(Testimony of Mrs. Pauline Hegberg.)

U. S. Exhibit No. 2—(Continued.)

(b) Of the amounts contributed by me to dependents listed in 4 (a) only (If none, write None'') \$.....contributed to (Name of dependent) was in payment for my own board and lodging.

(c) The sources of the "other income" shown in the last column of the table just above were as follows: (Give name of dependent and state whether income was earned or contributed; if contributed, give name of dependent and name and address of person or agency contributing.).....

(d) The income I earned from my work in my business, occupation, or employment during the past 12 months was \$.....

(e) My income from all other sources during the past 12 months was \$.....

Instructions.—Every registrant who fills in either statement No. 3 or No. 4 shall also fill in the statements numbered 5 through 9 in this series.

5. If any of my dependents (except my wife) are over 18 years of age, the reasons why they are dependent are as follows (list each person by name):

6. The following is a description of all property, real and personal, owned by (or held in trust for) either myself or my dependents (do not include clothing, personal effects, household furnishings, or automobile; indicate which of such property is your home):

Name of Person None.

Kind of Property (blank).

(Testimony of Mrs. Pauline Hegberg.)

U. S. Exhibit No. 2—(Continued.)

Value After Deducting Encumbrances \$.....

Net Income From This Property Past 12 Months (If none, write "None") (blank).

7. I (do, do not) do rent the house or apartment in which I live; if so, the monthly rent now is \$2.50.

8. I have contracted to purchase the following property (if none, write "None"):

Kind of Property None.

Date of Contract (blank).

Balance Now Outstanding (blank).

Monthly Payments (blank).

9. Other facts which I consider necessary to present fairly my own status and that of my dependents as a basis for my proper classification are (if none, write "None"): None.

Instructions:—With respect to any dependent (other than the registrant's own wife or child) whose support the registrant has assumed, the registrant shall furnish to the local board an affidavit of the person for whom dependency is claimed (or from the person's guardian if he is incompetent), explaining why and under what circumstances the registrant assumed such person's support. Copies of Form 40-A for this purpose may be obtained from the local board. If the dependent lives at a distance, do not delay return of the Questionnaire pending receipt of the affidavit; forward the affidavit as soon as received and it will then become a part of this Questionnaire. (5)

(Testimony of Mrs. Pauline Hegberg.)

U. S. Exhibit No. 2—(Continued.)

Series VIII.—Minister, or Student Preparing for
the Ministry

Instructions.—Every registrant who is a minister or a student preparing for the ministry shall fill in the statements in this series that apply to him.

1. (a) I (am, am not) am a minister of religion.

(b) I (do, do not) do customarily serve as a minister.

(c) I have been a minister of the (Name of sect or denomination) Jehovah's witnesses since (Month, day, year) August 1, 1939.

(d) I (have, have not) have been formally ordained. If so, my ordination was performed on (Month, day, year) June 25, 1939, by (Ecclesiastical official performing the ordination) Watchtower Bible & Tract Soc. at (City and State) Los Angeles, California.

2. (a) I (am, am not) am not a student preparing for the ministry in a theological or divinity school.

(b) I am attending the (Name of theological or divinity school), which was established (before, after) September 16, 1939, and is located at (Place).

Series IX.—Citizenship

Instructions.—Every registrant shall fill in the statements numbered 1, 2, 3, and 4 in this series.

1. I was born at (Town) Bakersfield, (State) California, (Country) U. S. A.

(Testimony of Mrs. Pauline Hegberg.)

U. S. Exhibit No. 2—(Continued.)

2. I was born on (Month) March (Day) 15,
(Year) 1924.

3. My race is:

☒ White;

☐ Negro;

☐ Oriental;

☐ Indian;

☐ Filipino;

Other (specify)

4. I (am, am not) am a citizen of the United States.

Instructions:—Every registrant who is not a citizen of the United States shall fill in the statements numbered 5, 6, 7, and 8.

5. I (am, was last) a citizen or subject of (Name of country). My Alien Registration No. is (If none, write "None").

6. My permanent residence has been in the United States since (Month) (Day) (Year).

7. I (have, have not) filed a declaration of intention to become a citizen of the United States (first papers). Declaration filed at (Place) on (Month) (Day) (Year) under No.....

8. I (have, have not) filed a petition for naturalization (second papers). Petition filed at (Place), on (Month) (Day) (Year).

Series X.—Conscientious Objection to War

Instructions.—Any registrant who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form shall sign the statement below requesting a Special Form

(Testimony of Mrs. Pauline Hegberg.)

U. S. Exhibit No. 2—(Continued.)

for Conscientious Objector (Form 47) from the local board which must be completed and returned to the local board for consideration.

By reason of religious training and belief I am conscientiously opposed to war in any form and for this reason request that the local board furnish me a Special Form for Conscientious Objector (Form 47) which I am to complete and return to the local board.

(Signature)

Series XI.—Court Record (Confidential)

Instructions.—Every registrant shall fill in statement No. 1.

1. I (have, have not) have not been convicted of a crime, other than minor traffic violations.

Instructions.—Every registrant who has ever been convicted of a crime, other than minor traffic violations, shall fill in statement No. 2, listing all convictions. (6)

2. The record of my convictions is as follows:
Offense None.

Date (Month, Day, Year) (blank).

Court (Name and location) (blank).

Sentence (blank).

3. I (am, am not) am not now being retained in the custody of a court of criminal jurisdiction, or other civil authority.

(Testimony of Mrs. Pauline Hegberg.)

U. S. Exhibit No. 2—(Continued.)

Series XII.—Military Service (Confidential)

Instructions.—Every registrant who now is or has been a member of the armed forces of the United States shall fill in the statements in this series. (Use a separate line for each term of service.)

My military service has been as follows:

Arm of Service (Army, Navy, National Guard, etc.) None.

Date of Entry Into Service (Month, Day, Year) (blank).

Still in Service (Yes, No) (blank).

Date of Discharge (Month, Day, Year) (blank).

Type of Discharge (Honorable, Dishonorable, Bad Conduct, Not Honorable, Undesirable, or Other—Specify) (blank).

Series XIII.—Present Members of Armed Forces,
Certain Officials, Etc.

Instructions.—Every registrant who is a member of one or more of the groups named in this series shall check the appropriate item or items, and shall supply any further information called for under the item or items checked.

I am at present:

1. ☐ A commissioned officer, warrant officer, pay clerk, or enlisted man of the Regular Army, the Navy, the Marine Corps, the Coast Guard, the Coast and Geodetic Survey, the Public Health Service, the federally recognized active National Guard, the Officers' Reserve Corps, the Regular Army Reserve, the Enlisted Reserve Corps, the Naval Re-

(Testimony of Mrs. Pauline Hegberg.)

U. S. Exhibit No. 2—(Continued.)

serve, the Marine Corps Reserve, or the Coast Guard Reserve; my rank or commission is.....
in the (Name of service).

2. ☐ A cadet, United States Military Academy; midshipman, United States Naval Academy; cadet, United States Coast Guard Academy; man who has been accepted for admittance (commencing with the academic year next succeeding such acceptance) to the United States Military Academy as cadet, to the United States Naval Academy as midshipman, or to the United States Coast Guard Academy as cadet, and whose acceptance is still in effect; cadet of the advanced course, senior division, Reserve Officers' Training Corps or Naval Reserve Officers' Training Corps; I am (A cadet, midshipman, or accepted for admittance) in (Name of corps, academy, etc.).

3. ☐ The Governor of a State or Territory, a member of a legislative body of the United States or of a State or Territory, a judge of a court of record of the United States or of a State or Territory or the District of Columbia; my office is:.....
.....

Registrant's Statement Regarding Classification

Instructions.—It is optional with registrant whether or not he fills in this statement, and failure to answer shall not constitute a waiver of claim to deferred or other status. The local board is charged by law to determine the classification of the registrant on the basis of the facts before it, which should

(Testimony of Mrs. Pauline Hegberg.)

U. S. Exhibit No. 2—(Continued.)

be taken fully into consideration regardless of whether or not this statement is filled in.

In view of the facts set forth in this Questionnaire it is my opinion that my classification should be Class 4-D.

The registrant may write in the space below or attach to this page any statement which he believes should be brought to the attention of the local board in determining his classification.

I am appending to this page a statement of fact and Scripture that I believe should be brought to the attention of the Board in determining my classification.

Registrant's Affidavit

Instructions.—1. Every registrant shall make the registrant's affidavit. 2. If the registrant cannot read, the questions and his answers thereto shall be read to him by the officer who administers the oath.


State of California,
County of San Francisco—ss.

I, George Robert Gutman, do solemnly swear (or affirm) that I am the registrant named and described in the foregoing statements in this Questionnaire; that I have read (or have (7) had read to me) the statements made by and about me, and that each and every such statement is true and complete to the best of my knowledge, information, and

(Testimony of Mrs. Pauline Hegberg.)

U. S. Exhibit No. 2—(Continued.)

belief. The statements made by me in the foregoing (are, are not) are not in my own handwriting.

Registrant sign here 

GEORGE ROBERT GUTMAN.

(Signature or mark of registrant)

Subscribed and sworn to before me this 10th day of September, 1942.

[Seal] RUTH H. COSGROVE.

(Signature of officer)

Notary Public in and for the City and County of San Francisco, State of California.

My Commission expires

(Designation of officer)

If another person has assisted the registrant in filling out this Questionnaire, such person shall sign the following statement:

I have assisted the registrant herein named in preparation of this Questionnaire because (For example—Registrant unable to read and write English, etc.)

.....
(Signature of Advisor)

Instructions.—Registrant shall write nothing below this line when filling out the Questionnaire.

Minute of Action on Request for Extension of Time for Filing Claim or Proof

The application of.....
to have time for filing claim or proof extended to
....., 19..... is (granted, refused) for the

(Testimony of Mrs. Pauline Hegberg.)

U. S. Exhibit No. 2—(Continued.)

reason that

.....
(Date).....
Member.Minute of Action by Local Board No.....,
County, State.....The local board classifies the registrant in Class
1, Subdivision, by the following vote: Yes 3,
No..... (Date) 11/23/42.

GEO. GILLIN,

Member.

Appeal to Board of Appeal

I hereby appeal to the board of appeal from the
determination of the local board.(Date) Dec. 21, 1942. (Signature of person ap-
pealing) George R. Gutman. (Relationship to reg-
istrant, i. e., parent, employer, appeal agent, etc.)
(blank).Minute of Action by Board of Appeal No.....,
County....., State.The board of appeal classifies the registrant in
Class 1, Subdivision A, by the following vote: Yes
3, No 0, 2 absent.

(Date) Feb. 10, 1943.

FRED WASS,

Chairman, Appeal Bd. 8.

Member.

(Testimony of Mrs. Pauline Hegberg.)

U. S. Exhibit No. 2—(Continued.)

Appeal to President

I hereby appeal to the President from the determination of the board of appeal.

(Date) blank. (Signature of person appealing) blank. (Relationship to registrant, i. e., parent, employer, appeal agent, etc.) blank.

Minutes of Other Actions

Dates 12/10/42 Class I A to reg P. Paul Vlautin.
2-24-43 Class I A to reg (dec. of Appeal Bd.)
P. V.

4-22-43 Class I A to reg (dec. of President) Geo.
B. Gillin. (8)

[Endorsed]: Filed 6/17/43.

The defendant also filed with the Board a letter in which he asked for a IV-D classification.

(The letter was here identified by the witness and said letter was admitted in evidence and marked U. S. Exhibit No. 3)

(Testimony of Mrs. Pauline Hegberg.)

U. S. EXHIBIT NO. 3

George R. Gutman
1892 Fell Street
San Francisco, Calif.

Local Draft Board No. 86
1444 Haight Street
San Francisco, Calif.

Gentlemen :

My reason for asking for Class IV-D in my questionnaire is set out below :

I am an ordained minister and being such, I devote all my time to preaching the gospel. I am, of course ordained first by the Almighty God "whose name alone is JEHOVAH". (Psalms 83:18) I am ordained also by The Watchtower Bible and Tract Society who are the publishers for Jehovah's witnesses. This second ordination is to comply with the laws of the Nation. I obtain my authority to preach this gospel from the Bible and is given by the Lord himself as recorded at Isaiah 61:1, 2.

"The Spirit of the Lord GOD is upon me ; because the Lord hath anointed me to preach good tidings unto the meek ; he hath sent me to bind up the brokenhearted, to proclaim liberty to the captives, and the opening of the prison to them that are bound ;"

"To proclaim the acceptable year of the LORD, and the day of vengeance of our God ; to comfort all that mourn ;"

(Testimony of Mrs. Pauline Hegberg.)

Isaiah 43:10-12.

“Ye are my witnesses, saith the LORD, and my servant whom I have chosen: . . . Therefore ye are my witnesses, saith the LORD, (JEHOVAH) that I am God.”

Also at Ezekiel 3:16-21 and also Ezekiel 33:1-9 it is brought out by the Lord that if we warn not the people and they die in their iniquity then their blood is upon our shoulders for failing to tell them of this gospel. Further emphasizing the absolute necessity of preaching to the people, Paul, at 1 Corinthians 9:16 states:

“For though I preach the gospel, I have nothing to glory of: for necessity is laid upon me; yea, woe is unto me, if I preach not the gospel!”

Also it is clearly shown at 1 Timothy 1:2; 2:7 and 2 Timothy 1:11 that “I am appointed (ordained) a preacher, and a apostle and a teacher unto the gentiles (Nations).” This being my commission, I could not forsake the Army of Jesus Christ for the Army of any earthly nation as that would necessarily be treason to my obligations in His services. I am as stated by Paul, at 2 Timothy 2:3, 4 a “soldier of Jesus Christ.”

“Thou therefore endure hardness, as a good soldier of Jesus Christ”

“No man that warreth entangleth himself with the affairs of this life; that he may please him who hath chosen him to be a soldier.”

(Testimony of Mrs. Pauline Hegberg.)

I am, as stated at 1 Peter 2:21 commanded to follow in the footsteps of Jesus.

“For even hereunto were ye called: because Christ also suffered for us, leaving us an example, that ye should follow his steps.”

We have a record in the following scriptures that Jesus and the apostles were continually going about from village to village preaching and showing the glad tidings of the Kingdom of God. Luke 8:1; Matthew 9:35; Matthew 10:7, 12-14; Mark 13:10; Acts 5:42; Acts 20:20. These scriptures show very forcefully that it is the obligation of every true Christian to do as Jesus did and preach this gospel. The THEOCRACY concerning which we are preaching is not to be set up by any man, group of men, or human organization, neither will it be run by any man but by the Lord JEHOVAH through his son Jesus Christ. Jesus at Matthew 6:10 instructed his faithful followers to pray for the establishment of that righteous government. At Hebrews 11th Chapter is recorded a list of some of the men who will rule as the earthly princes or governors of that THEOCRACY. Those who are now representation the THEOCRATIC GOVERNMENT are known as JEHOVAH'S witnesses, and truly they are witnesses to His name and Kingdom. The THEOCRATIC Ambassadors, of which I am proud to be one, are not of this world even as the THEOCRACY has no part with the affairs of this world. John 18:36, 37 states in part:

(Testimony of Mrs. Pauline Hegberg.)

“ . . . My Kingdom is not of this world: if my kingdom were of this world, then would my servants fight, that I should not be delivered to the Jews: but now is my kingdom not from hence.”

“ Pilate therefore said unto him, Art thou a king then? Jesus answered, Thou sayest that I am a king. To this end was I born, and for this cause came I unto the world that I should bear witness unto the truth. . . .”

John 17:14-18

“ I have given them thy word; and the world hath hated them, because they are not of the world, even as I am not of the world.”

“ They are not of the world even as I am not of the world.”

“ As thou hath sent me into the world, even so have I also sent them into the world.”

John 15:18, 19

“ If the world hate you, ye know that it hated me before it hated you.”

“ If ye were of the world, the world would love his own: But because ye are not of the world, but I have chosen you out of the world, therefore the world hateth you.”

John 8:23; Luke 12:30-32; and 1 John 4:17 all prove the above statement that neither Jesus, his kingdom or his followers are of this world, but rather sent into this world for the purpose of being a witness for his name, therefore the followers of Christ cannot

(Testimony of Mrs. Pauline Hegberg.)

sidestep his obligation to preach this gospel unto all nations for a witness. Matthew 24:14.

One might ask, "Well then, are you as a follower of Jesus against one government and for another earthly government?" The correct answer is, emphatically NO. A Christian's position must be one of strict neutrality in any quarrels between the nations. Philippians 3:18-20 according to the Weymouth translation shows our citizenship is in heaven.

Philippians 3: 18-20

"For there are many whom I have often described to you, and I now even with tears describe them, as being enemies to to the Cross of Christ."

"Their end is destruction, their bellies are their God, their glory is in their shame, and their minds are devoted to earthly things."

"We, however, are free citizens of Heaven, and we are waiting with longing expectation for the coming from Heaven of a Savior, the Lord Jesus Christ."

Therefore I must be loyal to my Citizenship in Heaven in preference to any earthly government. One could not at the same time be a servant of God and the Devil. Satan is now the invisible god or prince of this present world.

Matthew 6:24

"No can can serve two masters: for either he will hate the one, and love the other; or else he

(Testimony of Mrs. Pauline Hegberg.)

will hold to the one, and despise the other. Ye cannot serve God and mammon."

Also Luke 16:13

"No man can serve two masters: for either he will hate the one, and love the other; or else he will hold to the one, and despise the other. Ye cannot serve God and mammon."

The following scriptures show if we are friends of the world then we enemies of God. Galatians 1:10

"For do I now persuade men, or Go? or do I seek to please men? for if I yet pleased men, I should not be the servant of Christ."

James 4:4

"Ye adulterers and adulteresses, know ye not that the friendship of the world is enmity with God? Whosoever therefore will be a friend of the world is the enemy of God."

1 John 2:15

"Love not the world, neither the things that are in the world. If any man love the world, the love of the Father is not in him."

The following scriptures give evidence of the rulership of Satan over this world;

2 Corinthians 4:4

"In whom the god of this world hath blinded the minds of them which believe not, lest the light of the glorious gospel of Christ, who is the image of God, should shine unto them."

(Testimony of Mrs. Pauline Hegberg.)

John 12:31

“Now is the judgment of this world: Now shall the prince of this world be cast out.”

John 14:30

“Hereafter I will not talk much with you: For the prince of this world cometh, and hath nothing in me.”

“Our weapons are not carnal, but as stated in 2 Corinthians 10:3-5 and also at Ephesians 6:12 (Weymouth trans.) are mighty to the pulling down of strongholds.”

My neutrality was foreshadowed in Abraham's day as he was neutral when the invaders overran the country of sodom and Gomorrah in which he was domiciled. When the invaders took Lot captive Abraham pursued them and brought Lot back, not because Lot was a fellow countryman but because Lot was a fellow servant of the most High. Abraham was not a pacifist, even as I am not. When a fellow servant of Jehovah was in danger, Abraham was willing to risk his life to rescue him. Hebrews 11:9, 10 proves he was a stranger in the earth looking for a city or government whose builder and maker is God. It is further written of him in Hebrews 11:12, 13 (Diaglott Trans.) that he confessed that he was a stranger in the land, “. . . But not they long for a better, that is, a heavenly (country. . . .” Vs. 14, 15.

The question might be asked, “But would you take such a stand with the alternative of punishment and

(Testimony of Mrs. Pauline Hegberg.)

possible death? The scriptures at Acts 5:29; Acts 4:19; Matthew 5:10-12 Matthew 10:17-19, 21-23, 28, 39 Matthew 16:25, 26; Matthew 23:33, 34; Matthew 24:9, 13 Mark 8:35, Mark 13:9, 13; Luke 12:4, 5; John 15:18-21, 25; John 17:14 2 Cor. 12; 10; 2 Corinthians 4:8, 9 very conclusively show that it is much better to suffer death at the hands of the Devil's crowd that to suffer everlasting death as punishment for disobeying the Lord JEHOVAH'S commandments.

In considering the above scriptures as well as my service record I sincerely hope you will arrive at a just and honorable decision for which you may have any cause to apologize before God.

Respectfully Yours,

GEORGE ROBERT GUTMAN

George Robert Gutman

[Endorsed]: Filed 6/17/43.

On November 23, 1942, the Board placed the defendant in classification I-A. On December 10, 1942, a classification card showing this I-A was mailed to defendant—Form 57. Thereafter he demanded a personal appearance before the Board and the same was had. Defendant submitted a series of letters to the effect that he was entitled to a ministerial exemption.

(One of the letters was here identified by the witness and same was admitted in evidence and marked U. S. Exhibit No. 4)

(Testimony of Mrs. Pauline Hegberg.)

U. S. EXHIBIT NO. 4

[Pencil Note]: Mail Reg. # .32711

San Francisco, California

November 20, 1942

[Stamped]: Local Board No. 86—San Francisco County.—91 075 086. Nov. 23, 1942. 1444 Haight Street, San Francisco, California.

Local Draft Board No. 86

1444 Haight Street

San Francisco, Calif.

Gentlemen:

I am writing in regard to submitting further evidence to my file to further support my claim for Class IV-D.

This further evidence consists of a copy of Consolation magazine of July 9, 1941. This magazine has a copy of a letter from Brig. Gen. Lewis B. Hershey to Mr. Hayden Coveington, who is the attorney for Jehovah's Witnesses. It also contains the opinion of Gen. Hershey regarding Jehovah's Witnesses and their classification. You will note that Gen Hershey says that those of Jehovah's Witnesses who devote all their time to preaching the Gospel and who are known as "pioneers" are entitled to Classification as Ordained Ministers.

As I brought out in both my questionnaires, I have been engaged in the Pioneer Service for the past 39 months, starting in August of 1939. The reason that my name does not appear on the list in Consolation is

(Testimony of Mrs. Pauline Hegberg.)

that at the time of compiling that list I was not old enough. My name has been submitted to National Headquarters for addition to the Certified Official list, as I notified you in a previous statement.

I have recently received information from H. C. Covinton to the effect that National Headquarters has just revised its policy with respect to the addition of names to the certified official list and there will be no more names added, but otherwise the present arrangement will remain in effect, namely that those possessing the usual qualifications and holding credentials proving their FULL TIME PIONEER status (such as Ordination Certificates, which you have in my file) will be given the same consideration as ministers of "other religious organizations" and the fact that the name of a pioneer does not appear on the list will not be grounds for denying the pioneer Class IV-D

It might also be well to note that since May 1, 1942 I have been what is designated as a "Special Pioneer Publisher" who have a higher minimum of hours devoted to Preaching namely 175 rather than the Pioneer 150.

Hoping that you will consider the above evidence in determining my correct Classification, I remain

Respectfully yours,

GEORGE R. GUTMAN

[Endorsed]: Filed 6-17-43.

(Testimony of Mrs. Pauline Hegberg.)

On December 17, 1942, the Board received another letter from defendant requesting reconsideration and IV-D classification for himself.

(The letter was here identified by the witness and same was admitted in evidence and marked U. S. Exhibit No. 5)

U. S. EXHIBIT NO. 5

[Stamped]: Local Board No. 86—San Francisco County.—91 075 086. Dec. 17, 1942. 1444 Haight Street, San Francisco, California.

San Francisco, Calif.

December 15, 1942

Local Draft Board No. 86

1444 Haight Street

San Francisco, California

Gentlemen:

I have received my Notice of Classification, and I notice that I have not been classified properly.

The purpose of this letter is to request a personal appearance before the Local Board so that this mistake may be cleared up. I would suggest that you check over the items in my file which include an Ordination Letter which should substantiate my claim for that of an Ordained Minister, Class IV-D. Thanking you in advance for your consideration in this matter, I remain

Respectfully yours,

GEORGE ROBERT GUTMAN

George Robert Gutman

[Endorsed]: Filed 6-17-43.

(Testimony of Mrs. Pauline Hegberg.)

On December 20, 1942, defendant took an appeal to the Appeal Board; he filed a letter with the local Board on that date.

(The letter was here identified by the witness and same was admitted in evidence and marked U. S. Exhibit No. 6)

U. S. EXHIBIT NO. 6

[Stamped]: Local Board No. 86—San Francisco County.—91 075 086. Dec. 17, 1942. 1444 Haight Street, San Francisco, California.

San Francisco, California

December 20, 1942

Local Draft Board No. 86

1444 Haight Street

San Francisco, California

Gentlemen:

I would like to appeal my classification from that of 1-A to that of IV-D.

I have been incorrectly classified by the Local Board in Class 1-A. The reason I say incorrectly classified is because I am an Ordained Minister of Jehovah's witnesses and have been for the past 3½ years. I started in the Ministry on August 8, 1939 when I was formally recognized and appointed as a pioneer minister. I have filed with the Local Board a photostatic copy of my Ordination Letter to bear this out. I was raised in the organization of Jehovah's witnesses, My parents being also Ministers of Jehovah's witnesses. When I reached the age of 15, I began to realize the importance to me, of becoming a Min-

(Testimony of Mrs. Pauline Hegberg.)

ister and helping others to know and to realize who the True and Only God is and what are His purposes toward humankind. I was immersed in July 1939 and then made my consecration to do the will of Jehovah God. Following shortly thereafter on August 1, 1939, I went into the fulltime pioneer minister service, receiving my acknowledgement on August 8, 1939.

In View of the fact that I was not subject to the draft at the time that the certified official list was released, my name was not included thereon, as National Headquarters asked that those who were registered, or subject to draft only, be supplied. As soon as I registered my name was filed by the Watchtower Bible and Tract Society with National Headquarters, but in view of change of policy at that time being drawn up by National Headquarters (which policy has now been put into effect and notice thereof being mailed to State Directors of Selective Service by National Headquarters) National Headquarters did not act on such new list of June registrants, including listing of my name. In view of new policy of National Headquarters not to add the name of any registrants, to the certified official list of Jehovah's witnesses, but those who have factual proof of their being full-time pioneer ministers of Jehovah's witnesses should receive full and fair consideration by the Local Board and the same recognition given ministers of all religious organizations. I am entitled to such recognition and classification in IV-D. I would like at this time to refer you again to the

(Testimony of Mrs. Pauline Hegberg.)

letter of General Hershey as of June 12, 1940, a copy of which I have filed with you, which states that Pioneers are entitled to classification of Ordained Ministers the same as Ministers of other religious organizations. This further supports my claim for classification of IV-D.

The above evidence definitely proves beyond any reasonable doubt that I am rightfully entitled to classification as an Ordained Minister, therefore in closing I hope that you will correct your error in this matter, therefore, I remain,

Respectfully,

GEORGE ROBERT GUTMAN

George Robert Gutman

[Endorsed]: Filed 6-12-43.

Thereafter the entire file was sent to the Appeal Board [10] through the State Director of Selective Service. A letter of transmittal was sent with the file.

(The letter of transmittal was here identified by the witness and same was admitted in evidence and marked U. S. Exhibit No. 7.)

(Testimony of Mrs. Pauline Hegberg.)

U. S. EXHIBIT NO. 7

Appeal Board

[Stamped]: Local Board No. 86, San Francisco County.—91 075 086. Dec. 21, 1942. 1444 Haight Street, San Francisco, California.

State Director of
Selective Service System,
Plaza Building,
Sacramento, California.

Dear Sir: Subject: George Robert Gutman. Order No. 11866

We are enclosing the entire file for the above named registrant who wishes to appeal his classification from 1-A to that of IV-D.

Yours very truly,

LOCAL BOARD NO. 86

GEORGE B. GILLIN

George B. Gillin, Chairman.

Encl.

[Endorsed]: Filed 6-17-43.

The State Director wrote the appeal Board to the effect that the defendant's name was not on the list of certified members of Jehovah's Witnesses. This letter of the Director was in turn transmitted to the local Board. It was dated February 3, 1943.

(The letter was here identified by the witness and same was admitted in evidence and marked U. S. Exhibit No. 8.)

(Testimony of Mrs. Pauline Hegberg.)

U. S. EXHIBIT NO. 8

[Cut]

State of California
Director of Selective Service
Plaza Building, Sacramento

In Replying Refer
to Subject Below:

February 1, 1943

Appeal Board No. 8
606-08 Mills Building
San Francisco, California

Subject: George Robert Gutman, #11866,
L. B. No. 86, 17-14

Gentlemen:

We acknowledge receipt of your letter of January 22nd, enclosing the file of the above named registrant and requesting information as to whether his name appears on the certified list of members of Jehovah's Witnesses.

Please be advised that the registrant's name is not listed in the official list.

Very truly yours,
K. H. LEITCH
K. H. Leitch

State Director of Selective
Service

[Endorsed]: Filed 6-17-43.

(Testimony of Mrs. Pauline Hegberg.)

On February 10, 1943, the Board of Appeals classified the defendant as I-A. After the file was returned to the local Board I sent defendant a notice of the Appeal Board's action—on February 24, 1943. Thereafter defendant was sent a notice to report for induction on March 17, 1943.

(The notice of induction was here identified by the witness and same was admitted in evidence and marked U. S. Exhibit No. 9.)

U. S. EXHIBIT NO. 9

App. not Req.

[Pencil Note]: held up at request of Sacto.

Prepare in Duplicate

Local Board No. 86 91

San Francisco County 075

: : Mar 4 1943 086

1444 Haight Street

San Francisco, California

(Local Board Date Stamp With Code)

... [Cut]

March 4, 1943

(Date of mailing)

ORDER TO REPORT FOR INDUCTION

The President of the United States,

To (First name) George (Middle name) Robert
(Last name) Gutman

Order No. 11866

GREETING:

Having submitted yourself to a local board com-

(Testimony of Mrs. Pauline Hegberg.)

posed of your neighbors for the purpose of determining your availability for training and service in the armed forces of the United States, you are hereby notified that you have now been selected for training and service in the (Army, Navy, Marine Corps) Land or Naval

You will, therefore, report to the local board named above at (Place of reporting) Induction Station #1, 428 Market Street, S. F. Calif at (Hour of reporting) 7:30 a. m., on the 17th day of March, 1943

This local board will furnish transportation to an induction station of the service for which you have been selected. You will there be examined, and, if accepted for training and service, you will then be inducted ~~into the stated branch of the service.~~

Persons reporting to the induction station in some instances may be rejected for physical or other reasons. It is well to keep this in mind in arranging your affairs, to prevent any undue hardship if you are rejected at the induction station. If you are employed, you should advise your employer of this notice and of the possibility that you may not be accepted at the induction station. Your employer can then be prepared to replace you if you are accepted, or to continue your employment if you are rejected.

Willful failure to report promptly to this local board at the hour and on the day named in this notice is a violation of the Selective Training and

(Testimony of Mrs. Pauline Hegberg.)

Service Act of 1940, as amended, and subjects the violator to fine and imprisonment.

If you are so far removed from your own local board that reporting in compliance with this order will be a serious hardship and you desire to report to a local board in the area of which you are now located, go immediately to that local board and make written request for transfer of your delivery for induction, taking this order with you.

GEO. B. GILLIN

Member or clerk of the local
board.

[Endorsed]: Filed 6-17-43.

Thereafter the Board received a notice to stay the induction and forward the file to State Headquarters, which was done. On March 16, 1943, a letter was written by the local Board to the State Headquarters transmitting the file for reference to National Headquarters.

(The letter of transmittal was here identified by the witness and same was admitted in evidence and marked U. S. Exhibit No. 10.)

(Testimony of Mrs. Pauline Hegberg.)

U. S. EXHIBIT NO. 10

[Written in ink]: March 16, 1943

Colonel K. H. Leitch,
State Director of
Selective Service System,
Plaza Building,
Sacramento, California.

Dear Sir:

Subject: George Robert Gutman, Order
No. 11866

In accordance with telephone conversation had with your office on this date with reference to the Induction of the above named registrant, we are enclosing his file for your immediate attention. We have withheld all papers which are necessary for his induction on March 17, 1943.

Yours very truly,

LOCAL BOARD NO. 86.

GEORGE B. GILLIN,

George B. Gillin

Chairman.

Encl.

[Endorsed]: Filed 6-17-43.

Thereafter the Board received a letter from National Headquarters transmitted with a letter from State Headquarters, indicating the decision of National Headquarters.

(Testimony of Mrs. Pauline Hegberg.)

(The two letters were here identified by the witness and same were admitted in evidence and marked as one exhibit, namely, U. S. Exhibit No. 11.)

U. S. EXHIBIT NO. 11

National Headquarters
Selective Service System
21st Street and C Street, N. W.
Washington, D. C.

April 9, 1943

In Replying Address
The Director of Selective Service
and Refer to No.
3-4.9-220

State Director of Selective Service
Plaza Building
Sacramento, California

Subject: George Robert Gutman
Order No. 11866
Local Board No. 86
San Francisco County
San Francisco, California

Dear Colonel Leitch:

We acknowledge receipt of your letter of March 20, 1943, regarding the above-named registrant.

(Testimony of Mrs. Pauline Hegberg.)

No further action in this case is contemplated by this headquarters.

For The Director,
SIMON P. DUNKLE
Lt. Colonel, Infantry
Camp Operations Division

[Cut]

State of California
Director of Selective Service
Plaza Building, Sacramento
April 16, 1943

In Replying Refer
to Subject Below:

Selective Service Headquarters
Local Board No. 86
1444 Haight Street
San Francisco, California

Subject: George Robert Gutman, 9a-15
Order No. 11866

Gentlemen:

We return herewith the cover sheet of the above named registrant together with a copy of a letter from National Headquarters which is self-explanatory.

(Testimony of Mrs. Pauline Hegberg.)

This registrant may now be processed in the usual manner.

Very truly yours,

K. H. LEITCH

K. H. Leitch

State Director of Selective
Service

Enclosures

[Endorsed]: Filed 6-17-43.

Thereafter on May 1, 1943 the defendant was sent a notice to report for induction on May 14, 1943.

(The notice to report for Induction was here identified [11] by the witness and same was admitted in evidence and marked U. S. Exhibit No. 12.)

(Testimony of Mrs. Pauline Hegberg.)

U. S. EXHIBIT NO. 12

App. not Req.

Prepare in Duplicate

Local Board No. 86 91

San Francisco County 075

May 1 1943 086

1444 Haight Street

San Francisco, California

(Local Board Date Stamp With Code)

[Cut]

May 1 1943

(Date of mailing)

ORDER TO REPORT FOR INDUCTION

The President of the United States,

To (First name) George (Middle name) Robert
(Last name) Gutman

Order No. 11866

GREETING:

Having submitted yourself to a local board composed of your neighbors for the purpose of determining your availability for training and service in the armed forces of the United States, you are hereby notified that you have now been selected for training and service in the (Army, Navy, Marine Corps) Land or Naval

You will, therefore, report to the local board named above at (Place of reporting) Induction Station #1, 428 Market St., S. F. Calif. at (Hour of reporting) 8:00 A. m., on the 14 day of May, 1943

(Testimony of Mrs. Pauline Hegberg.)

This local board will furnish transportation to an induction station of the service for which you have been selected. You will there be examined, and, if accepted for training and service, you will then be inducted ~~into the stated branch of the service.~~

Persons reporting to the induction station in some instances may be rejected for physical or other reasons. It is well to keep this in mind in arranging your affairs, to prevent any undue hardship if you are rejected at the induction station. If you are employed, you should advise your employer of this notice and of the possibility that you may not be accepted at the induction station. Your employer can then be prepared to replace you if you are accepted, or to continue your employment if you are rejected.

Willful failure to report promptly to this local board at the hour and on the day named in this notice is a violation of the Selective Training and Service Act of 1940, as amended, and subjects the violator to fine and imprisonment.

If you are so far removed from your own local board that reporting in compliance with this order will be a serious hardship and you desire to report to a local board in the area of which you are now located, go immediately to that local board and

(Testimony of Mrs. Pauline Hegberg.)

make written request for transfer of your delivery for induction, taking this order with you.

GEO. B. GILLIN

Member or clerk of the local board.

[Endorsed]: Filed 6-17-43.

Defendant did not report for induction on said date, and he was thereafter sent a notice of delinquency.

(The notice of delinquency was here identified by the witness and same was admitted in evidence and marked U. S. Exhibit No. 13.)

U. S. EXHIBIT NO. 13

App. not Req.

NOTICE OF DELINQUENCY

[Cut]

Local Board No. 86 91

San Francisco County 075

May 15 1943 086

1444 Haight Street

San Francisco, Calif.

Local Board Date Stamp With Code)

May 15, 1943

(Date)

To George Robert Gutman
(First) (Middle) (Last)

Order No. 11866

Dear Sir:

According to information in possession of this

(Testimony of Mrs. Pauline Hegberg.)

local board, you have failed to perform the duty, or duties, imposed upon you under the selective service law as specified below.

☐ To present yourself, for and submit to, registration.

x x (Specify other) Failure to report to Induction Station as instructed,

You are therefore directed to report, by mail, telegraph, or in person, at your own expense, to this local board, on or before (Hour) 1:00 PM., on the 20th day of May, 1943.

Failure to report on or before the day and hour specified is an offense punishable by fine or imprisonment, or both.

GEO. B. GILLIN

Member or Clerk of the Local Board.

This form shall be made out in quadruplicate. The local board shall send the original to the suspected delinquent at his last-known address and one copy to the State Director of Selective Service. The date of mailing shall be noted on another copy, which shall be filed. The local board shall post a copy in a conspicuous place for public inspection, and, whenever practicable, shall give the information the widest possible publicity.

[Endorsed]: Filed 6-17-43.

(Testimony of Mrs. Pauline Hegberg.)

Thereafter and on May 20, 1943, the Board received a letter from defendant in response to the notice of delinquency.

(The letter was here identified by the witness and same was admitted in evidence and marked U. S. Exhibit No. 14.)

U. S. EXHIBIT NO. 14

George Robert Gutman
1892 Fell Street
San Francisco, Calif.
May 18, 1943

[Stamped]: Local Board No. 86 91
San Francisco County 075
May 20 1943 086

1444 Haight Street
San Francisco, Calif.

Local Board No. 86
1444 Haight Street
San Francisco, Calif.

Gentlemen:

I have received my Notice of Delinquency as on D.S.S. Form 281, and in compliance with the request made therein, I am using this method to answer. You have notified me that I am suspected of not reporting for induction into the United States Army as I was ordered to do by the local board.

I guess that there is really very little doubt in your

(Testimony of Mrs. Pauline Hegberg.)

minds or in mine as to whether or not I reported for induction. You know what I am and realize that being an Ordained Minister of an organized and recognized religious organization, I am in no-wise required to respond to any such order from a group of men (?) that seek to take the law into their own hands. You know as well as I that at the present time, my case is pending before National Headquarters for an appeal to the President. Of course realizing this you would naturally rush my Induction as fast as possible so as to get me in the Army before the President has a chance to act. Such action is, however, only typical of local board No. 86.

I have filed with local board #86 an abundance of evidence proving beyond all possible doubt that I am an Ordained Minister and have been recognized as such since August 1, 1939. Also filed with you were five affidavits from men who have known me for the past three years and more, showing that they do recognize me as a Minister and have for the past three and one half years. This evidence, aside from my scriptural ordination at Isaiah 61:1,2; Isaiah 43:10-12 and 2 Corinthians 9:16 was sufficient to warrant my classification as a Minister. Also submitted to you were copies of Opinions rendered by Brig. Gen. Lewis B. Hershey regarding the classification of JEHOVAH'S Witnesses. These Opinions you have entirely ignored in making your erroneously incorrect decision in my case. The latest of these

(Testimony of Mrs. Pauline Hegberg.)

Opinions states that the local board is obligated to investigate the standing of the person in question among others of JEHOVAH'S Witnesses. This is very true in the case of servants in the various companies of JEHOVAH'S Witnesses, such as Company Servant, Asst. Company Servant, Back-call Servant, Sound Servant (which I am) Advertising Servant (which I am). You have failed utterly to make any effort at all to investigate my standing among others of the Organization. You haven't even lived up to your own law (which you claim to put so much faith in) much less the perfect and just law of JEHOVAH your God.

I hope that the above answers to your charges will suffice to help you to understand my course of action, why I have taken it and just how far I am willing to go in obeying the laws of imperfect and unjust man. Therefore I remain

Fighting for the NEW WORLD,
GEORGE ROBERT GUTMAN
George Robert Gutman
Order Number 11866

[Endorsed]: Filed 6-17-43.

Cross-Examination

By Mr. Shea:

The hearing of defendant before the Board was not less than five minutes long.

GEORGE B. GILLIN

a witness called on behalf of the United States, being duly sworn, testified as follows:

I am chairman of Selective Service Local Board 86, San Francisco, California. The other board members are Mr. Moscowitz and Mr. P. Paul Vlautin, Sr. We receive no compensation for our service on the Board. I participated in the classification of defendant. He was classified as I-A, unanimously. Defendant made several personal appearances before the Board. All members of the Board were present at the hearings.

Cross-Examination

By Mr. Shea:

I met defendant prior to considering his classification. He came up to the Board with another registrant, Mr. Fiedler, also a Jehovah's Witness. A discussion of Mr. Fiedler's classification was involved. I had a scuffle with defendant, as a result of which I filed a complaint against him in Municipal Court and he was convicted. Defendant came in several times and talked to [12] the Board and presented evidence to place in the file in reference to his claim for IV-D classification. We entertained him as long as he cared to be entertained. He was not forced out of the hearing room at any time. We examined defendant's purported certificate or ordination at the hearing. He was given the courtesy of the Board at all times, and when he wanted to leave we closed the file. We accepted all evidence he cared to present. We told him that

(Testimony of George B. Gillin.)

since he had no confidence in the Board he could appeal his case and have outside people handle the problem.

Redirect Examination

To elaborate further about the "scuffle". A Mr. Fiedler had come to the Board about his claim to being a minister and defendant had come with him. Since hearings are confidential, defendant was not admitted to the hearing but stayed in the outer room. I noticed that defendant was eavesdropping at the door. Mrs. Hegberg went out and tried to get him away from the door and she told me that she had asked him several times to get away from the door, but he refused. I then went out. I made a remark to a couple of shipyard workers who asked for their hearings because they had to go to work, that I was having a discussion with a gentleman who was trying to use the Bible to evade the draft. Defendant jumped up and said: "What is wrong with the Bible". I said: "There is nothing wrong with the Bible; I am a firm believer in it." So with that he came after me and I went after him. I am certainly not picking on a six-foot, 195 pound boy unless I am trying to protect myself.

MAURICE MOSKOWITZ

a witness called on behalf of the United States, being duly sworn, testified as follows: I was present at the defendant's hearing on December 21,

(Testimony of Maurice Moskowitz.)

1942. Defendant stated to Mr. Gillin: "I have something I want to place in my file and also to appeal my case." Mr. Gillin handed him the questionnaire, which he signed as his appeal. Defendant was exceptionally brief; had little to say. I do not think it lasted more than five minutes. No harsh words. [13]

P. PAUL VLAUTIN, SR.

a witness called on behalf of the United States, being duly sworn, testified as follows: I am a member of Draft Board 86 and was present on night of December 21, 1942, when defendant appeared before the Board. I do not believe that Mr. Gillin said anything offensive to defendant. I participated in the classification of defendant as I-A. The decision was unanimous.

THOMAS E. O'BRIEN

a witness called on behalf of the United States, being duly sworn, testified as follows: I am a special agent for the Federal Bureau of Investigation. I know the defendant. I had a conversation with defendant on May 22, 1943 relative to an alleged Selective Service violation. He was not in custody. He stated that he had received an order to report for induction and that he had not reported. He also stated that he had received his I-A classification card; that he had appealed this classification;

(Testimony of Thomas E. O'Brien.)

that on the appeal the classification had been affirmed and that he had been notified of the action of the Appeal Board; that he then appealed to the President; that this appeal was denied. He said that he was not willing to go to a conscientious objectors' camp or to the army for combatant service or noncombatant service. He handed me a typed statement.

(The statement was here identified by the witness and same was admitted in evidence and marked U. S. Exhibit No. 15)

U. S. EXHIBIT NO. 15

TO WHOM IT MAY CONCERN

I, George Robert Gutman do hereby affirm that the statements made below are my own and that I am in entire agreement with them. I have made them of my own free will without any compulsion, and have affixed my signature to them each as being correct.

I was born at Bakersfield California on March 15, 1924. In 1939 I made my consecration to serve Jehovah and to act as a witness for him. Thereafter, on August 1, 1939, I became a Pioneer-Minister of Jehovah's Witnesses. I have been steadily engaged in this Ministerial work since, devoting at least 150 active hours in carrying the message of God's Kingdom by Christ Jesus, that is 150 hours each month. I have been Ordained by the Watchtower Bible and Tract Society, and have received from them a Letter of Ordination showing that

(Testimony of Thomas E. O'Brien.)

they, as a recognized cristian Organization, do consider me a Mininster. Of course I have my scrip-tural ordination as well, authorizing me to do this work as set forth at Isaiah 61:1,2; Isaiah 43:10-12; 1 Corinthians 9:16 and many others.

The reason I have taken the course of action that I have I have set out below to the best of my ability that all may know that my reasons are all based entirely on the Bible. Having devoted my life to the service of the Great God Almighty, I am required to do certain things by His written Law, bound together and called the Holy Scriptures. From this source of information we find that we are commanded to do the will of God as set forth in the following scriptures, Isaiah 61:1,2, "The Spirit of the Lord God is upon me; because the Lord hath annointed me to preach good tidings unto the meek; he hath sent me to bind up the broken-hearted, to proclaim liberty to the captives, and the opening of the prison to them that are bound;

"To proclaim the acceptable year of the Lord; and the day of vengeance of our God; to comfort all that mourn;"

Isaiah 43: 10-12, "Ye are my witnesses, saith the Lord, and my servant whom I have chosen. . . . therefore ye are my witnesses, saith the Lord, (Jehovah) that I am God."

Ezekiel 3:16-21 and Ezekiel 33:1-9, bring out that if we have a knowledge of the Scriptures and keep it to ourselves and do not carry this knowledge to others that they might know and understand the

(Testimony of Thomas E. O'Brien.)

Truth of God's Word, then if they die in their iniquity, their blood is upon our shoulders, while if we do warn them and they continue on in their wicked course, then their blood is upon their own heads, and they shall suffer for it and no one else. Further emphasizing the great necessity of preaching to the people,

GEORGE ROBERT GUTMAN

2

The apostle Paul, at 1 Corinthians 9:16 states; "For though I preach the gospel, I have nothing to glory of: for necessity is laid upon me; yea, woe is unto me, if I preach not the gospel!" One might think that this was fine for Paul, but it doesn't apply to anyone today. On this Paul further states at 1 Corinthians 10:11, "Now all these things happened unto them for ensamples: and they are written for our admonition, upon whom the ends of the world are come."

I have already enlisted in the Army, not in the Army of the United States or any other earthly government, but in the Army of Jehovah God, and I have received my commission in that Army and therefore of course, I could not do anything that would result in treason to the Government that I am representing, The Theocracy. I have, of course, the scriptures to back me up in this stand, says 2 Timothy 2:3,4 "Thou therefore endure hardness, as a good soldier of Jesus Christ.

"No man that warreth entangleth himself with the affairs of this life; that he may please him who hath chosen him to be a soldier."

(Testimony of Thomas E. O'Brien.)

The Theocracy, which I am representing is not to be set up or run by any man or group of men, or human organization, but it will be directed by the hand of Jehovah through His King Christ Jesus. Jesus, at Matthew 6:10 instructed his faithful followers to pray for the establishment of that righteous government. At Hebrews the 11th chapter is recorded a list of some of the men who will rule as the earthly princes or governors of that Theocracy. That long hoped for government of righteousness is now here and those who have the privilege of representing it are in this land today known as Jehovah's Witnesses, and truly they are witnesses to the name and majesty of the Great God Jehovah. As for the word "Theocracy" it does not appear in this form in the Bible, but is derived from the two words "theos" and "kratos" meaning God and dominion. Therefore the name Theocracy would mean God's Dominion, and who of us today, would not desire a government over which God's dominion ruled supreme.

The Scriptures show us very plainly that we should obey all of the laws of the Nation in which we are domiciled as long as they do not conflict with God's Law, which of course will be obeyed in preference to the law of any earthly Nation, regardless of the results to the one thus acting. Acts 4:19 states, "But Peter and John answered and said unto them, Whether it be right in the sight of God to hearken unto you more than unto God, judge ye." Also Acts 5:29 "Then Peter and the other apostles

(Testimony of Thomas E. O'Brien.)

answered and said, We ought to obey God rather than men".

GEORGE ROBERT GUTMAN

3

The question may be asked, "But should this stand be taken if heavy punishment is threatened or imposed?" The answer from the Bible is a very strong Yes. This proven by many scriptures cited below showing that it is much better to have the disfavor of men and even to endure their punishment that they may heap upon you for doing God's will than to give in to the whims of selfish men and suffer eternal destruction at the hand of God. The scriptures supporting this are as follows Matthew 5:10-12; 10:17-19, 21-23, 28, 39; 16:25, 26; 23:33, 34; 24:9, 13; Mark 8:35; 13:9, 13; Luke 12:4, 5; John 15:18-21, 25; 17:14; 2 Corinthians 12:10; 4:8, 9.

I have tried in the preceding pages to present clearly the reasons for my actions regarding the Selective Service Regulations, and I hope that you may be able to see that it is not a case of what I want to do, but because of the oaths that I have taken before God, It is a case of what I have to do, with no alternative whatsoever.

GEORGE ROBERT GUTMAN

[Endorsed]: Filed 6-17-43.

I think that defendant said he was not a conscientious objector. I don't know whether this defendant has any other occupation except that I have

(Testimony of Thomas E. O'Brien.)

seen him riding around town on two or three occasions driving a motorcycle on which is stated some occupation. I don't know whether he is working or not. It was a delivery motorcycle. I have seen him riding around within the last three months.

Here the United States Rested.

EXCEPTION NO. 1

Thereupon said defendant, through his attorney, William Shea, moved the Court for a directed verdict of not guilty on the grounds that the evidence was insufficient as a matter of law to sustain a conviction, which motion being denied, the [14] defendant then and there duly entered an exception to the ruling of the Court.

VERNE G. REUSCH

a witness called on behalf of defendant, being duly sworn, testified as follows:

I am one of Jehovah's Witnesses recognized by the Watchtower Bible and Tract Society. I have been such for twelve years. I am company servant for the San Francisco Company. I have known the defendant about a year. He was appointed by the Society to the San Francisco area. He is a "special pioneer", which is the ultimate group in the Society. His work would consist of arranging and conducting Bible classes, generally counseling, aiding and advising other company publishers and

(Testimony of Verne G. Reusch.)

the company publisher looks to the "special pioneer" for advice in scriptural matters. We hold services comparable to what are known as religious services in other religions, which consist in delivering Bible Lectures, etc., in which a man qualified for that job would act as chairman. I have seen defendant act as chairman at such services. There are only a few "special pioneers" in relation to the bulk of membership, made up of company publishers.

Cross-Examination

I have no reason to doubt that defendant became a minister at the age of 15 years. Every member of Jehovah's Witnesses is not a minister. I think we had one boy, 12 years old, who was a minister. He had been raised in the knowledge of the truth and had put in 150 hours in the proclamation of the kingdom message. The defendant is a minister recognized by the Society as *will* as by reason of direct appointment. And regardless of whether or not he was a pioneer, if engaged in the same type of work, he would still be a minister.

I consider that Board 86 acted unfairly in classifying defendant and that the Board of Appeals also acted unfairly in de- [15] nying his appeal. If the National Director's Office reviewed the case, it acted unfairly in not giving the proper classification.

C. D. EASTER

a witness called on behalf of defendant, being duly sworn, testified as follows:

I have been a member of Jehovah's Witnesses since 1918 I am assistant company servant of the Golden Gate company. I am a pioneer; outside of my pioneer work, I work about two days a week. The rest of the time I devote to the Society. I have known defendant for about 12 months; he operates through the Golden Gate company. He is a special pioneer.

Cross-Examination

There are about 75 members in the Golden Gate company. The youngest member is about 7 years old. He is not recognized by the Society as a minister. I would recognize him as a minister if he desired to preach. Samuel was 7 when he took care of the temple; Jeremiah was only 12 when he was instructed to preach the destruction of Jerusalem; Jesus preached in the temple at 12.

I believe that defendant might well have considered it treason against Almighty God, for him to go into the army. Having consecrated himself to the "kingdom" if he violates that consecration he would be guilty of treason against God. For Jehovah's Witnesses to go into the army, even as chaplains, would not be fulfilling their theocratic obligations to the Most High God.

GEORGE ROBERT GUTMAN

the defendant, was then called as a witness in his own behalf and being duly sworn, testified as follows:

I am the defendant. I am 19 years old. My mother is a Jehovah's Witness; has been for about 25 years. My father is dead; he was also a Jehovah's Witness. I have been engaged in the work of the Society for about 4 years, in full time service. The minimum hours for a general pioneer is 150 hours or approximate 5 hours [16] a day to presenting and preaching the gospel to the people. I have been a special pioneer since May 1, 1942.

(Here the witness identified a purported Certificate of Ordination and same was admitted in evidence and marked Defendant's Exhibit B)

(Testimony of George Robert Gutman.)

DEFENDANT'S EXHIBIT B

Offices:	Phone
Administration	Triangle 5-1474
124 Columbia Heights	Cable
Publishing	Watchtower
117 Adams Street	Brooklyn
Watchtower	
(imprint)	
Bible and Tract Society	
Incorporated	

‘This Kingdom Gospel Must Be Preached’

Publishing . 117 Adams Street . Brooklyn, N. Y.

[Stamped]:

Local Board No. 86	91
San Francisco County	075
Dec. 21 1942	086

1444 Haight Street

San Francisco, California

Sept. 8, 1942

To Whom It May Concern:

This is to certify that George Robert Gutman, one of Jehovah's witnesses, has been associated with the Watchtower Bible and Tract Society, Inc., according to our records, since July 1939.

He was baptized in July 1939, and was appointed direct representative of this organization to perform missionary and evangelistic service in organizing and establishing churches and generally preaching the Gospel of the Kingdom of God in definitely assigned territory on August 8, 1939.

(Testimony of George Robert Gutman.)

Mr. Gutman's entire time is devoted to missionary work. He has declared himself to be a follower of Christ Jesus and wholly consecrated to do the will of Almighty God. He has taken a course of study in the Bible and Bible helps prescribed by this Society and has shown himself apt to preach and teach "this Gospel of the Kingdom".—Matthew 24:14.

He has the Scriptural ordination to preach "this Gospel of the Kingdom". (Isaiah 61:1, 2; Isaiah 52:7) He is, therefore, declared by this Society a duly ordained minister of the Gospel and is authorized to represent this Society and preach "this Gospel of the Kingdom", proclaiming the name of Jehovah God and Christ Jesus, His King.

WATCHTOWER B. & T. SOCIETY, INC.

T. J. SULLIVAN

Superintendent of Evangelists

Subscribed and sworn to before me this 8th day of Sept. 1942.

(Seal)

WILLIAM K. JACKSON

Notary Public Kings County Kings Co. Clks. No. 73,

Reg. 3005 Commission expires March 30, 1943

(Cut)

Jehovah's Kingdom Message Available in Books, Magazines and Phonograph Records

[Endorsed]: Filed 6-17-43.

(Testimony of George Robert Gutman.)

My first assignment to work for the Society was in August, 1939. I was sent to Paso Robles, California, where I worked for about a month. My work there was mainly in organizing Bible studies. I had no secular work. From there I was assigned to San Luis Obispo, where I remained about a month and from there I was assigned to Madera. All assignments come from the head office of the Society in Brooklyn, New York. From Madera I was assigned to Kettleman City, California. I also worked for the Society in Utah, Wyoming, Kansas and in Indianapolis, St. Louis and Detroit.

My work as a special pioneer consists of my devoting primarily at least 175 hours to preaching the gospel, each month.

(Here the witness identified certain affidavits and same were admitted in evidence and marked Defendant's Exhibit A)

(Testimony of George Robert Gutman.)

DEFENDANT'S EXHIBIT A

(Copy) 1892 Fell Street
San Francisco, Calif.
February 27, 1943

[Stamped]: Local Board No. 86 91
San Francisco County 075
Mar 1 1943 086

1444 Haight Stret
San Francisco, California

State Director of Selective Service
Plaza Building,
Sacramento, California

Dear Sir:

I have just been notified by my local board that my classification of I-A has been approved by the appeal board.

The purpose of this letter is to repuest you to take an appeal in my behalf as is required by Section 628.1 of the Selective Service Regulations allowing appeals when "necessary to avoid an injustice". I am asking you to take an appeal in my behalf in view of the fact that I have been a Pioneer-Minister of Jehovah's Witnesses since August 8, 1939, proof of which I have submitted to local and appeal boards and this they have entirely ignored and have clas-sified me with the entirely wrong classification.

I am enclosing with this letter a copy of the letter that I gave to the local board requesting an appeal be taken. I ask you to read this and take

(Testimony of George Robert Gutman.)

Defendant's Exhibit A—(Continued).

the only proper action, that of taking an appeal to National Headquarters.

I would also like to request at this time that you instruct the local board to withhold all action on my case pending review by the State Director.

I would greatly appreciate hearing from you immediately on this matter.

Respectfully,

GEORGE ROBERT GUTMAN

George Robert Gutman

Order No. 11866

[Endorsed]: Filed 6-17-43.

(Testimony of George Robert Gutman.)

Defendant's Exhibit A—(Continued).

[Stamped]: Local Board No. 86 91
San Francisco County 075

Mar 1 1943 086
1444 Haight Street
San Francisco, California

1892 Fell Street
San Francisco, Calif.
February 27, 1943

Local Board No. 86
1444 Haight Street
San Francisco, Calif.

Gentlemen:

I have received my Notice of Classification as on DSS Form 57. As the error you made in my original classification was not rectified by the appeal board, I find it necessary to take an appeal to National Headquarters.

Enclosed herewith is a true duplicate copy of the letter that I have sent to the State Director in Sacramento requesting an appeal in my behalf.

I would like to request you, as I have the State Director to withhold all action on my case pending review by the State Director.

Thanking you for your consideration in this matter, I remain

Respectfully,

GEORGE R. GUTMAN

George Robert Gutman
Order No. 11866

(Testimony of George Robert Gutman.)

Defendant's Exhibit A—(Continued).

PS. I am also enclosing at this time various affidavits from other Ministers of Jehovah's Witnesses at the various places I have been assigned to Ministerial Duties.

Burbank, Calif.

P. O. Box 172

[Stamped]: Local Board No. 86 91

San Francisco County 075

Mar 1 1943 086

1444 Haight Street

San Francisco, California

State of California

County of Los Angeles—ss.

I, Ernest L. Wasson, special representative of the Witchtower Bible and Tract Society, assigned to the Burbank Company of Jehovah's witnesses, do hereby swear and affirm:

That I have known George Robert Gutman for the past three years, and know him to be a regularly Ordained Minister of Jehovah's witnesses:

That I have worked with Mr. Gutman in preaching the Gospel of God's Kingdom, and know that he faithfully performed all his obligations as a Minister.

Witness my hand this 10th day of Feb. 1943.

ERNEST L. WASSON

Pioneer Company Servant of
Burbank Company of Je-
hovah's witnesses.

(Testimony of George Robert Gutman.)

Defendant's Exhibit A—(Continued).

Subscribed and sworn to before me this 10th day
of Feb. 1943

[Seal]

SALLY H. SIMPSON

Notary Public

My Commission Expires June 2, 1946.

[Stamped]: Local Board No. 86 91

San Francisco County 075

Mar 1 1943 086

1444 Haight Street

San Francisco, California

TO WHOM IT MAY CONCERN

I, Emil Jensen, have known George Robert Gutman for the past three years and over and have had many dealings with him as a Minister of the Gospel. I first became acquainted with Mr. Gutman when he was sent by Jehovah's Witnesses to the Pasa Robles Company of Jehovah's Witnesses to perform Ministerial Duties in conjunction with the Pasa Robles Company of Jehovah's Witnesses. While working with our Church here Mr. Gutman performed his obligations as a Minister. He was engaged full time in preaching the Gospel, conducting Bible Studies among the people in this vicinity, and otherwise living up to his covenant obligations. I also had chance to show that while he was working with the Armona Calif., Company he had the responsibilities of two servants in that Company.

(Testimony of George Robert Gutman.)

Defendant's Exhibit A—(Continued).

I hereby subscribe to the above statements as being true without any reservation.

EMIL JENSEN

Emil Jensen

Company Servant of Pasa
Robles Company of Jeho-
vah's Witnesses.

Subscribed and Sworn to before me this 9th day
of Feb., 1943.

[Seal] DAISY B. CLIFFORD,
Notary Public in and for the County of San Luis
Obispo, State of California.

[Stamped]: Local Board No. 86 91
San Francisco County 075

Mar 1 1943 086
1444 Haight Street
San Francisco, California

TO WHOM IT MAY CONCERN

I, John Pendrak, do know George Robert Gutman. I have known Mr. Gutman for the past two years and over and do know him to be an Ordained Minister of Jehovah's Witnesses. I first became acquainted with Mr. Gutman when he was sent by the Watchtower Bible and Tract Society or Jehovah's Witnesses to work with the Park City, Utah, Company of Jehovah's Witnesses in the performance of his Ministerial duties. Mr. Gutman who at that time was working with his mother was in charge of Wasatch County and had much to do

(Testimony of George Robert Gutman.)

Defendant's Exhibit A—(Continued).

with helping to build up the Church there. He also performed Ministerial duties in and around Park City, there working in conjunction with the Company of which I am and was the Company Servant. While I have known Mr. Gutman he has always carried out his obligations as a Minister.

I do subscribe to the above statements as being the truth without exception.

JOHN PENDRAK

Company Servant of Park
City Company of Jehovah's
Witnesses.

Subscribed and sworn to before me this 9th day
of February A. D. 1943.

[Seal]

JEROME PAXTON

At Park City, Utah Notary
Public

My Commission Expires March 4, 1944.

[Stamped]: Local Board No. 86 91

San Francisco County 075

Mar 1 1943 086

1444 Haight Street

San Francisco, California

TO WHOM IT MAY CONCERN

I, Cyril C. Northum, have known George Robert Gutman two years now, and I know him to be a full time Minister of the Gospel. I first became acquainted with Mr. Gutman when he was sent by

(Testimony of George Robert Gutman.)

Defendant's Exhibit A—(Continued).

the Watchtower Bible and Tract Society to perform Ministerial services in conjunction with the Armona, Calif., Company of Jehovah's Witnesses. He is a special representative of Jehovah's Witnesses serving with such Christian Organization as an Ordained Minister. While Mr. Gutman was in the Armona Company, he served as Stockkeeper and Territory Servant in addition to his regular work he had as Minister, such as conducting Bible studies with the people as well as conducting Bible Meetings in the Kingdom Hall.

I do hereby swear that the above statements are the whole truth and that without any exceptions.

CYRIL C. NORTHUM

Cyril C. Northum

Company Servant of the Armona Company of J. W.

Subscribed and sworn to before me this 8th day of February 1943.

[Seal]

F. R. HIGHT

Notary Public

[Stamped]: Local Board No. 86 91

San Francisco County 075

Mar 1 1943 086

1444 Haight Street

San Francisco, California

State of California,

County of Fresno—ss.

David Davidian, being first duly sworn, deposes and says:

(Testimony of George Robert Gutman.)

Defendant's Exhibit A—(Continued).

That he is now, and for more than thirty-three years has been, a resident of the City of Fresno, County of Fresno, California. That during the past thirty-three years he has been an active minister and worker as one of Jehovah's witnesses, and has had opportunity to know and come in contact with many other witnesses in the San Joaquin Valley. That he has served many of Jehovah's witnesses by giving Bible lectures and by such service has been acquainted with them. Also has met and knows many of them through association in conventions held in the State of California and also local conventions in San Joaquin Valley. That affiant has known for many years Mrs. Gutman, and knows that for more than twenty years she has been a minister of the gospel and actively engaged in preaching as one of Jehovah's witnesses. That this affiant has met her many times in conventions at Los Angeles, and other assemblies held at Fresno and Bakersfield. That affiant also knows George Robert Gutman, son of said Mrs. Gutman, and while affiant has not been associated regularly with the group where said George regularly met with Jehovah's witnesses, affiant has met him in Fresno, several times, also at assemblies held in San Joaquin Valley, and knows that said George Robert Gutman was always an active minister of the gospel. That affiant's daughter, Beulah Davidian, also a minister of the gospel, served at Hanford, California during the year 1942, and through her this

(Testimony of George Robert Gutman.)

Defendant's Exhibit A—(Continued).

affiant was informed many times that said George Robert Gutman was one of the active ministers at Armona, California.

That during the time said George Robert Gutman was serving as a minister for the congregation of Jehovah's witnesses at Armona, California, he made some trips to Fresno in connection with matters connected with literature. That thereafter, this affiant was informed that said George Robert Gutman had become a pioneer, giving full time to that service of preaching the Gospel. That when he became a pioneer, affiant with his mother were assigned to Sanger, California, and then re-assigned to San Francisco, where he is now performing his duties as minister of the Gospel.

That said George Robert Gutman is known by Jehovah's Witnesses to be a young man of good moral character, good student, and a good minister of the gospel, and fully capable of performing such work.

That this affiant now is in charge of the congregational Bible Study, 1033 Fulton St. Fresno, and is also Advertising servant of said congregation.

DAVID DAVIDIAN

Subscribed and sworn to before me this 8th day of February, 1943.

[Seal]

JULIUS HANSEN

Notary Public, in and for
said County and State.

[Endorsed]: Filed 6-17-43.

(Testimony of George Robert Gutman.)

In the past three months, I have devoted a total of 13 days to secular work in order to secure funds to fix our car and about two years ago, I worked at secular employment for some two months, but during all this time, I continued to perform my work for the society.

I claimed exemption as a minister from the outset. I filed papers in support of my claim, and when I received a I-A classification I demanded a hearing by the Board. The hearing was set for about December 21, 1942 and I went before the Board. The hearing did not last more than five minutes. Mr. Gillin made a statement to the effect that I had asked for a hearing and desired to know what it was for. I told him I had received an incorrect classification of I-A; I had made application for IV-D and had evidence I desired to present and would like to discuss with him on my classification as IV-D. He asked me if I wanted to take an appeal. [17]

I stated that I would like to discuss the matter with him further before seeing if an appeal were necessary, at which time he again asked if I wanted to appeal, and I said, "Yes, I do". And he shoved the questionnaire over and said: "Sign this, then" and he left. The evidence I had in letter form and I wanted to read it to Mr. Gillin; that evidence was not considered by him at any time during my hearing. As I left, I handed it to him and told him to put it in the file. This hearing was after my prior encounter with Mr. Gillin in connection

(Testimony of George Robert Gutman.)

with the Fiedler case. In that matter, I had gone with Fiedler to the same Board, at his request, to help him carry a record and phonograph. We waited at the Board for quite a while and then I went to make a phone call. When I came back Fiedler had gone in for his hearing before the Board.

(Here the Court adjourned until 9 o'clock a. m. Friday, June 18, 1943, and thereafter, and at said time the following proceedings were had)

GEORGE ROBERT GUTMAN

the defendant, recalled to the stand.

Direct Examination (Resumed)

Mr. Gillin came out of the hearing room in which Fielder was and as he opened the door I heard him say: "Young man, if you get that attitude you are going down the stairs damn' fast." He was standing with his hand on Fielder's shoulder. Gillin came on out into the waiting room and said: "Some guy in there pulled the Bible on me, trying to evade the draft". I asked him what was wrong with the Bible. He turned on me and asked if I was with the *buy* inside and I said that I was. He then told me to get the hell out of there. I started to get up and he grabbed me by the sleeve and tore it off. He called the police and had me arrested for disturbing the peace. He signed the

(Testimony of George Robert Gutman.)

complaint against me. All of this took place before I came up for classification before this same Board, with Mr. Gillin as chairman. [18]

I had exactly one hearing before the Board; that was December 21. The Board fixed the date of this hearing and mailed me a card. When I went to the hearing I was asked nothing about my work; I was asked one question as to whether I wanted to appeal. I was asked nothing concerning my relationship to other Jehovah's Witnesses, nor whether my functions corresponded to those of ministers in other religious groups. Mr. Gillin's attitude was very nice, but very abrupt, asking only the one question as to whether I wanted to appeal.

The Court: What do you mean by a special pioneer?

A. A special pioneer has a higher minimum of hours than a general pioneer. You must have been a general pioneer for at least one year.

My name was not on the list of certified ministers of Jehovah's Witnesses because at the time the original list was compiled I was not old enough to be subject to the draft. The Watchtower Bible and Tract Society furnished me an affidavit showing the reason why I was not on the list.

(Here the affidavit was identified by the witness and was admitted in evidence and marked Defendant's Exhibit C)

(Testimony of George Robert Gutman.)

DEFENDANT'S EXHIBIT C

Offices :	Phone
Administration	Triangle 5-1474
124 Columbia Heights	Cable
Publishing	Watchtower
117 Adams Street	Brooklyn

WATCHTOWER

Bible and Tract Society
Incorporated

‘This Kingdom Gospel Must Be Preached’

Publishing - 117 Adams Street - Brooklyn, N. Y.

LSA

June 14, 1943

To Whom It May Concern:

This is to certify that George Robert Gutman is and has been a pioneer minister of this Society since August 8, 1939, having been associated with this Society all his life, his mother also having been a pioneer minister since Mr. Gutman was two years old.

In June 1941 there was filed with the Selective Service System a list of pioneer ministers who were at that time subject to draft requirements. The name of Mr. Gutman was not included in said list because at that time he was not of registration age, and subject to draft requirements. He was at such time, June 1941, a pioneer minister in good standing with this Society, fully meeting the requirements of said ministers.

As soon as he registered, his name was submitted

(Testimony of George Robert Gutman.)

to National Headquarters of Selective Service System for addition to the certified list, however, before action could be taken in this respect, National Headquarters amended its policy with respect to adding names to the list, as is clearly set forth in Opinion No. 14 (Amended) November 2, 1942, paragraph 3.

Mr. Gutman is at present serving as a pioneer minister of Jehovah's witnesses and has been continuously so serving, as above stated, since August 8, 1939.

WATCHTOWER B. & T. SOCIETY, INC.

T. J. SULLIVAN

Superintendent of Evangelists

[Kings County Seal]

Subscribed and sworn to before me this 14th day of June 1943:

[Seal]

WILLIAM K. JACKSON

Notary Public Kings County Kings Co. Clk's No.

119 Reg. No. 62-J-5. Commission Expires
March 30, 1945

Jehovah's Kingdom Message Available in Books,
Magazines and Phonograph Records

(Testimony of George Robert Gutman.)

No. 5300

State of New York,
County of Kings—ss.

I, Francis J. Sinnott, Clerk of the County of Kings, and also Clerk of the Supreme Court for the said County, the same being a Court of Record, having a seal, Do Hereby Certify, That William K. Jackson whose name is subscribed to the deposition or certificate of the proof or acknowledgments of the annexed instrument, and thereon written, was, at the time of taking such deposition, or proof and acknowledgment, a Notary Public in and for such County, duly commissioned and sworn, and authorized by the laws of said State, to take depositions and to administer oaths to be used in any Court of said State and for general purposes; and also to take acknowledgments and proofs of deeds, of conveyances for land, tenements or hereditaments in said State of New York. And further, that I am were acquainted with the handwriting of such Notary Public, or have compared the signature of such officer with that deposited in my office by him, and verily believe that the signature to said deposition or certificate of proof or acknowledgment is genuine.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the said Court and County this 15 day of June 1943.

FRANCIS J. SINNOTT

Clerk

[Kings County Seal]

[Endorsed]: Filed 6-18-43.

(Testimony of George Robert Gutman.)

I refused to report for induction because I considered the action of the Board entirely arbitrary in classifying me. I did not feel that I had received a fair classification, and myself being a minister, I was in no wise required to report for induction.

Cross-Examination

I think the Board acted unfairly because I have a letter of ordination, which is as much or more as ministers of the Catholic, Protestant and Jewish faith have, proving that I am a minister. The Watchtower Society issues ordination letters only to full time ministers.

The appeal board has never seen me. I claim it gave me a [19] wrong classification. I did not claim the Board was prejudiced; just a wrong classification. I do not consider National Headquarters of Selective Service prejudiced against me, because National Headquarters gave the Board rules to determine my classification, which, if they had been lived up to, would not have resulted in the error of classification.

National Headquarters refused to interfere. I guess they decided that the Board and the Appeal Board acted fairly; but National Headquarters was wrong because they gave me the wrong classification. The National Director had no evidence to show whether Local Board had followed out instructions to determine my standing among Jehovah's Witnesses. They all classified me improperly; I would say they are prejudiced.

(Testimony of George Robert Gutman.)

One month after I was baptized in the Society, I became a pioneer, but I have been a Jehovah's Witness all my life. I have studied since I was old enough to study. I became a minister in 1939 at the age of fifteen. Between 1939 and the present time I have worked for the Gastart Studios in Hollywood. I worked for them for a period of two months. It was about two years ago. I don't remember the exact date. Then I recently worked for a period of 12 or 13 days for the Sterling Engraving Company, driving a delivery motor.

The society does not pay me; it gives me certain expense money, anywhere from two dollars a month to twenty-five dollars a month. I get contributions from those interested in the work.

I believe that it would be treason to theocracy to enter the army, because I have made a covenant with my God, that I have enlisted in the army of Christ. Being a soldier of Christ—if one is a soldier of the United States, if he joins the army of Britain, although an ally, he is considered a deserter and will be prosecuted. As a soldier in the army of Christ, I have obligations to fulfill. If I were to give up those and take up arms [20] in the army of the United States, I could not fulfill those obligations that I have taken before the Great God Almighty.

I am not a conscientious objector. I am engaged in a war right now, between God Almighty and the Adversary, Satan, the Devil. The scripture shows it is one of the most decisive wars on the face of this earth. I am not willing to go into the Army

(Testimony of George Robert Gutman.)

of the United States. I am not willing to drive an ambulance in the Army of the United States. I am unwilling to go into a non-combatant corps and help the sick in the army.

MRS. PAULINE HEGBERG

a witness called on behalf of defendant, previously sworn, testified as follows:

Defendant brought in the correspondence and it was put in the file. Nothing in the file transmitted to the Appeal Board showed the altercation between Mr. Gillin and defendant.

(Here is a copy of Opinion 14 of the Director of Selective Service was admitted in evidence and marked Defendant's Exhibit D.)

DEFENDANT'S EXHIBIT D
VOL. III OPINION NO. 14 (AMENDED)

NATIONAL HEADQUARTERS
SELECTIVE SERVICE SYSTEM

Subject: Ministerial Status of Jehovah's Witnesses

Facts:

Jehovah's Witnesses claim exemption from training and service and classification in Class IV-D as duly ordained ministers of religion under section 5 (d), Selective Training and Service Act of 1940, as amended, and section 622.44, Selective Service

(Testimony of Mrs. Pauline Hegberg.)

Regulations, Second Edition, which read as follows:

Section 5 (d):

“Regular or duly ordained ministers of religion, and students who are preparing for the ministry in theological or divinity schools recognized as such for more than one year prior to the date of enactment of this Act, shall be exempt from training and service (but not from registration) under this Act.”

Section 622.44:

“Class IV-D: Minister of religion or divinity student. (a) In Class IV-D shall be placed any registrant who is a regular or duly ordained minister of religion or who is a student preparing for the ministry in a theological or divinity school which has been recognized as such for more than 1 year prior to the date of enactment of the Selective Training and Service Act (September 16, 1940).

“(b) A ‘regular minister of religion’ is a man who customarily preaches and teaches the principles of religion of a recognized church, religious sect, or religious organization of which he is a member, without having been formally ordained as a minister of religion; and who is recognized by such church, sect, or organization as a minister.

“(c) A ‘duly ordained minister of religion’ is a man who has been ordained in accordance with the ceremonial ritual or discipline of a recognized church, religious sect, or religious organization, to

(Testimony of Mrs. Pauline Hegberg.)

teach and preach its doctrines and to administer its rites and ceremonies in public worship; and who customarily performs those duties.”

Question.—May Jehovah’s Witnesses be placed in Class IV-D as regular or duly ordained ministers of religion exempt from training and service?

Answer:

1. The Watchtower Bible and Tract Society, Inc., is incorporated under the laws of the State of New York for charitable, religious, and scientific purposes. The unincorporated body of persons known as Jehovah’s Witnesses hold in common certain religious tenets and beliefs and recognize as their terrestrial governing organization the Watchtower Bible and Tract Society, Inc. By their adherence to the organization of this religious corporation, the unincorporated body of Jehovah’s Witnesses are considered to constitute a recognized religious sect.

2. The unusual character of organization of Jehovah’s Witnesses renders comparisons with recognized churches and religious organizations difficult. Certain members of Jehovah’s Witnesses, by reason of the time which they devote, the dedication of their lives which they have made, the attitude of other Jehovah’s Witnesses toward them, and the record kept of them and their work, are in a position where they may be recognized as having a standing in relation to the organization and the other members of Jehovah’s Witnesses similar to

(Testimony of Mrs. Pauline Hegberg.)

that occupied by regular or duly ordained ministers of other religions.

3. Members of the Bethel Family are those members of Jehovah's Witnesses who devote their full time and effort to the manufacture and production of books, pamphlets, and supplies for the religious benefit of Jehovah's Witnesses, the purpose of which is to present the beliefs of Jehovah's Witnesses and to convert others. For their religious services, the members of this group receive their subsistence and lodging and in addition a very modest monthly allowance. This group of individuals consist of the office and factory workers at 117 Adams Street, Brooklyn, New York, and workers in the executive offices at 124 Columbia Heights, Brooklyn, New York, and at the Farms. Pioneers of Jehovah's Witnesses are those members of Jehovah's Witnesses who devote all or substantially all of their time to the work of teaching the tenets of their religion and in the converting of others to their belief. A certified official list of members of the Bethel Family and pioneers is being transmitted to the State Directors of Selective Service by National Headquarters of the Selective Service System simultaneously with the release of this amended Opinion. The members of the Bethel Family and pioneers whose names appear upon such certified official list come within the purview of section 5 (d) of the Selective Training and Service Act of 1940, as amended, and they may be classified in Class IV-D. The status of members of the

(Testimony of Mrs. Pauline Hegberg.)

Bethel Family and pioneers whose names do not appear upon such certified official list shall be determined under the provisions of paragraph 5 of this opinion.

4. The original paragraph 4 has been consolidated with paragraph 3 of this amended Opinion.

5. The members of Jehovah's Witnesses, known by the various names of members of the Bethel Family, pioneers, regional servants, zone servants, company servants, sound servants, advertising servants, and back-call servants, devote their time and efforts in varying degrees to the dissemination of the tenets and beliefs of Jehovah's Witnesses. The deference paid to these individuals by other members of Jehovah's Witnesses also varies in a great degree. It is impossible to make a general determination with respect to these persons as to their relationship to Jehovah's Witnesses. Whether or not they stand in the same relationship as regular or duly ordained ministers in other religions must be determined in each individual case by the local board, based upon whether or not they devote their lives in the furtherance of the beliefs of Jehovah's Witnesses, whether or not they perform functions which are normally performed by regular or duly ordained ministers of other religions, and, finally, whether or not they are regarded by other Jehovah's Witnesses in the same manner in which regular or duly ordained ministers of other religions are ordinarily regarded.

6. In the case of Jehovah's Witnesses, as in

(Testimony of Mrs. Pauline Hegberg.)

the case of all other registrants who claim exemption as regular or duly ordained ministers, the local board shall place in the registrant's file a record of all facts entering into its determination for the reason that it is legally necessary that the record show the basis of the local board's decision.

LEWIS B. HERSHEY,

Director

[Endorsed]: Filed 6-18-43.

Redirect Examination

The entire file of defendant went to National Headquarters, and the entire file went to the Appeal Board.

Whereupon the defendant rested his case.

DEFENDANT'S EXHIBIT E

SELECTIVE SERVICE REGULATION

(2nd edition)

PART 625—APPEARANCE BEFORE LOCAL BOARD

(18,625)

Sec.

625.1 Opportunity to appear in person.

625.2 Appearance before local board.

625.3 Induction stayed.

(18,625.01)

625.1 Opportunity to appear in person. (a)
Every registrant, after his classification is deter-

mined by the local board (except a classification which is itself determined upon an appearance before the local board under the provisions of this part), shall have an opportunity to appear in person before the member or members of the local board designated for the purpose if he files a written request therefor within 10 days after the local board has mailed a Notice of Classification (Form 57) to him. Such 10-day period may not be extended, except when the local board finds that the registrant was unable to file such request within such period because of circumstances over which he had no control.

(b) No person other than the registrant may request an opportunity to appear in person before the local board.

(c) If the written request of the registrant to appear in person is filed with the local board within the 10-day period or if it is filed after such 10-day period and the local board finds that the registrant was unable to file such request within such period because of circumstances over which he had no control, the local board shall enter upon the Classification Record (Form 100) the date on which the request was received and the date and time fixed for the registrant to appear and shall promptly mail to the registrant a notice of the time and place fixed for such appearance.

(d) If such a written request of a registrant for an opportunity to appear in person is received after the 10-day period following the mailing of a Notice of Classification (Form 57) to the regis-

trant, the local board, unless it specifically finds that the registrant was unable to file such a request within such period because of circumstances over which he had no control, should advise the registrant, by letter, that the time on which he is permitted to file such a request has expired, and a copy of such letter should be placed in the registrant's file. Under such circumstances, no other record of the disposition of the registrant's request need be made.

(18,625.02)

625.2 Appearance before local board. (a) At the time and place fixed by the local board, the registrant may appear in person before the member or members of the local board designated for the purpose. The fact that he does appear shall be entered in the proper place on the Classification Record (Form 100). If the registrant does not speak English adequately, he may appear with a person to act as interpreter for him. No registrant may be represented before the local board by an attorney.

(b) At any such appearance, the registrant may discuss his classification, may point out the class or classes in which he thinks he should have been placed, and may direct attention to any information in his file which he believes the local board has overlooked or to which he believes it has not given sufficient weight. The registrant may present such further information as he believes will assist the local board in determining his proper classification. Such information shall be in writing or, if oral,

shall be summarized in writing and, in either event, shall be placed in the registrant's file. The information furnished should be as concise as possible under the circumstances. The member or members of the local board before whom the registrant appears may impose such limitations upon the time which the registrant may have for his appearance as they deem necessary.

(c) After the registrant has appeared before the member or members of the local board designated for the purpose, the local board shall consider the new information which it receives and shall again classify the registrant in the same manner as if he had never before been classified, provided that if he has been physically examined by the examining physician, the Report of Physical Examination and Induction (Form 221) already in his file shall be used in case his physical or mental condition must be determined in order to complete his classification.

(d) After the registrant has appeared before the member or members of the local board designated for the purpose, the local board, as soon as practicable after it again classifies the registrant, shall mail notice thereof on the Notice of Classification (Form 57) to the registrant and on Classification Advice (Form 59) to the persons entitled to receive such notice or advice on an original classification under the provisions of section 623.61. ((d) as amended January 31, 1942, and November 16, 1942.)

(e) Each such classification shall be followed by the same right or appeal as in the case of an original classification.

625.3 Induction stayed. A registrant shall not be inducted during the period afforded him to appear in person before a member or members of his local board, and if the registrant requests a personal appearance, he shall not be inducted until 10 days after the Notice of Classification (Form 57) is mailed to him by the local board, as provided in paragraph (d) of section 625.2 (Added April 3, 1943, Federal Register (8 F.R.4292) April 6, 1943.)

Approved December 18, 1941; effective February 1, 1942.

[Endorsed]: Filed 6-17-43.

EXCEPTION NO. 2

The defendant, through his attorney, William Shea, moved the Court for a directed verdict of not guilty on the grounds that the evidence was insufficient as a matter of law to sustain a conviction, which motion being denied, the defendant then and there duly entered an exception to the ruling of the Court.

EXCEPTION NO. 3

And thereupon defendant renewed his motion, made at the con- [21] clusion of the government's case in chief, for a directed verdict of not guilty on the grounds that the evidence was insufficient as a matter of law to sustain a conviction, which motion being denied, the defendant then and there duly entered an exception to the ruling of the Court.

Whereupon both the United States and the defendant rested their case. Thereupon both sides argued the case to the jury, at the conclusion of which argument, the Court instructed the jury as follows: [22]

The Court: Ladies and Gentlemen of the Jury: It now becomes the duty of the court to instruct the jury on the law of this case. It is the duty of the jury to apply the law thus given to the facts before them.

The jury are the sole judges of the facts. It is the duty of the jury to give uniform consideration to all the instructions which will be given, to consider all parts of them together and to accept such instructions as a correct statement of the law involved.

The indictment in this case charges that George Robert Gutman being a male citizen between the ages of eighteen and forty-five years, residing in the United States, and under the duty to present himself for and submit to registration under the provisions of the Selective Training and Service Act of 1940, as amended, and thereafter to comply

with the rules and regulations of said Act, as amended, and having in pursuance of said Act, as amended, and the rules and regulations made pursuant thereto, become a registrant of Local Board 86 of the Selective Service System in the City and County of San Francisco, California, which said Local Board Number 86 was duly appointed and acting for the area in which said defendant was a registrant, did, on or about the 14th day of May, 1943, at the City and County of San Francisco, in the Southern Division of the Northern District of California, and within the jurisdiction of this Court, knowingly and feloniously fail and neglect to perform such duty, in that he, the said defendant, did then and there knowingly and feloniously fail and neglect to comply with the order of said Local Board Number 86, which had theretofore classified him in Class I-A, to report for induction into the land and naval forces of the United States, as provided in said Selective Training and Service Act of 1940, as amended, and the rules and regulations made pursuant thereto. [23]

The pertinent portion of Section 11 of the Selective Training and Service Act of 1940, as amended, under which the defendant in this case is charged in the indictment, states that any person who in any manner shall knowingly fail and neglect to perform any duty required of him under this Act or rules and regulations made pursuant to this Act shall upon conviction be punished as provided in the Act.

(U. S. proposed instruction No. 3) :

“I instruct you that in Class I-A shall be placed every registrant who is found available for general military service, and such registrant shall be liable for induction into the armed forces of the United States”.

(U. S. proposed instruction No. 4) :

“I instruct you that the Local Boards, under rules and regulations prescribed by the President, shall have power, within their respective jurisdictions, to hear and determine, subject to the right of appeal to Appeal Boards therein authorized, all questions of claims with respect to inclusion for or exemption or deferment from training and service under the Selective Training and Service Act of 1940, as amended, of all individuals within the jurisdiction of such Local Board. The decision of such Local Board shall be final except where an appeal is authorized in accordance with such rules and regulations as the President may prescribe”.

(U. S. proposed instruction No. 5) :

“I instruct you that each Board of Appeal shall have jurisdiction to review any decision concerning classification of the registrant by any Local Board in the area of the Board of Appeals, provided such an appeal has been filed with the Local Board. Such appeal must be taken within 10 days after the date when the Local Board mails to the registrant notice of Classification, Form 57, and the decision of the Board of Appeal shall be final unless modified or reversed by the President”. [24]

I instruct you that whether a Selective Service

registrant is a minister of religion presents a question of fact which from its very nature is committed by the Act to the determination of the competent Local Draft Board, and if an appeal is taken, to the determination of the proper Appeal Board.

(U. S. proposed instruction No. 6):

“You as jurors are not to decide whether the defendant is or is not a minister of religion. What you are to determine is whether the defendant after classification intentionally ignored the Draft Board’s orders to report for induction.”

I instruct you that if you find beyond a reasonable doubt and to a moral certainty that on or about the 14th day of May, 1943, the defendant was under a duty to comply with the order of the Local Draft Board Number 86, the Selective Service Board with which he was registered and by which Board he had theretofore been classified in Class 1-A, to report for induction into the army of the United States, at San Francisco, California, as provided in said Selective Training and Service Act of 1940, as amended, and that he at that time and place as aforesaid knowingly failed and neglected to perform such duty, then you shall find the defendant guilty as charged.

In every crime there must be a union or joint operation of act and intent; for a conviction both elements must be proved to a moral certainty and beyond a reasonable doubt. Such intent is merely the purpose or willingness to commit such act. It does not require knowledge that such act is a violation of law. However, a person must be pre-

sumed to intend to do that which he voluntarily and willfully in fact does do, and must also be presumed to intend the natural and probable usual consequences of his own act. Every person charged with a crime is presumed to be innocent and this presumption has the effect of evidence and continues to operate on his behalf until it is overcome by competent evidence. [25] It is not necessary for the defendant to prove his innocence. The burden rests upon the prosecution to establish every element of the crime charged, to a moral certainty and beyond a reasonable doubt.

A reasonable doubt is a doubt resting upon the judgment and reason of him who conscientiously entertains it from the evidence in the case. It is a doubt based upon reason. By such a doubt is not meant merely every possible or fanciful conjecture that may be suggested or imagined. Reasonable doubt is that state of the case which, after an entire comparison and consideration of the evidence in the case, leaves the minds of the jurors in that condition that they cannot say they feel an abiding conviction to a moral certainty of the truth of the charge. Reasonable doubt is not mere imaginary or possible doubt, but fair doubt based upon reason and common sense and growing out of the testimony in the case.

In judging of the evidence, you are to give it a reasonable and fair construction, and you are not authorized, because of any feeling, sympathy or bias, to apply any strained construction or one that is unreasonable in order to justify a certain ver-

dict, when, were it not for such feeling or bias, you would reach a contrary conclusion; and whenever, after careful consideration of all the evidence, your minds are in that state where a conclusion of innocence is indicated equally with a conclusion of guilt, or there is reasonable doubt as to whether or not the evidence is so balanced, the conclusion of innocence must be adopted.

The jury are the sole and exclusive judges of the effect and value of the evidence addressed to them, and of the credibility of the witnesses who have testified in the case. The character of the witnesses as shown by the evidence should be taken into consideration for the purpose of determining their credibility and the facts as to whether they have spoken the truth; and the jury [26] may scrutinize not only the manner of witnesses while on the stand, their relation to the case, if any, but also their degree of intelligence.

A witness is presumed to speak the truth. This presumption however, may be repelled by the manner in which he testifies, his interest in the case, if any, or his motives for testifying falsely, if any, or his bias or his prejudice, if any, against one or more of the parties, by the character of his testimony, or by evidence affecting his character for truth, honesty and integrity, or by contradictory evidence.

It is the duty of the jury to give uniform consideration to all of the instructions which will be given, and to consider all of them together.

The Court charges the jury that if you find and

believe from the evidence that the defendant, on or about the 6th day of July, 1942, was duly registered by the Selective Service Board Number 86 of the City and County of San Francisco, California, and that he thereafter duly filed his questionnaire and that he was thereafter classified in Class I-A by said Board and that he was thereafter allowed to appeal to the Board of Appeals, and further find that the Board of Appeals affirmed his classification in Class I-A and if you further find that he was then notified of his classification by the Local Board, and that thereafter he was duly notified by said Local Board Number 86 to report for induction into the service on or about the 14th day of May, 1943, and further find that the defendant thereafter knowingly, wilfully, unlawfully and feloniously failed and refused to report for service in obedience to said order of said Local Board, then you are instructed that you must find the defendant guilty as charged in the charge set out in the indictment; and if you do not so find, then you should acquit the defendant.

In determining what your verdict shall be, you are to consider [27] only the evidence before you. Any testimony as to which objection was sustained, and any testimony which was ordered stricken out, must be wholly left out of account and disregarded.

The verdict of the jury should represent the opinion of each individual juror. It by no means follows that the opinions may not be changed in the jury room. The very object of the jury system is to secure unanimity by comparison of views and

by arguments among the jurors themselves in the jury room. There is nothing particularly different in the way the jury is to consider the proof in a criminal case from that by which men give their attention to any question depending upon evidence presented to them. You are to consider evidence only for the purpose for which admitted, in the light of your knowledge of the natural tendencies and propensities of human beings, and resolve the facts according to deliberate and cautious judgment; and while remembering that the defendant is entitled to any reasonable doubt remaining in your minds, remember as well that if no such doubt remains the government is entitled to a verdict.

Jurors are expected to agree upon a verdict when they can conscientiously do so, and are expected to consult with one another in the jury room; and any juror should not hesitate to abandon his own view when convinced it is erroneous. Your verdict must be unanimous.

When you retire to the jury room, you will select one of your number as foreman, and he will sign your verdict for you when it has been agreed upon, and will represent you as your foreman in the further conduct of this case in Court. The clerk has made out a form of verdict in blank and after the jury determines what their verdict shall be, it shall be filled in and signed by the foreman. The jury may retire.

EXCEPTION NO. 4

Thereupon and prior to the retirement of the jury, the defendant objection to U. S. instruction number 3 as given, which objection being overruled, defendant then and there entered an exception. [28]

EXCEPTION NO. 5

Thereupon and prior to the retirement of the jury, the defendant objected to U. S. instruction number 4 as given, which objection being overruled, defendant then and there entered an exception.

EXCEPTION NO. 6

Thereupon and prior to the retirement of the jury, the defendant objected to U. S. instruction number 5 as given, which objection being overruled, defendant then and there entered an exception.

EXCEPTION NO. 7

Thereupon and prior to the retirement of the jury, the defendant objected to U. S. instruction number 6 as given, which objection being overruled, defendant then and there entered an exception.

At the commencement of the trial, the defendant had duly submitted to the Court, the following proposed instructions:

Defendant's Proposed Instruction No. 1:

“If you find that the defendant is a regular minister of religion in the Society of Jehovah's Witnesses, or if you have reasonable doubt as to whether the defendant was a regular minister in the Society

of Jehovah's Witnesses, then you must acquit the defendant.

"The foregoing instruction is based upon the authority of Section 5 (d) of the Selective Training and Service Act of 1940"

Defendant Proposed Instruction No. 2:

"If you find or have reasonable doubt as to whether the draft board acted arbitrarily and capriciously and failed to accord the defendant a hearing upon his application for deferment as a regular minister of religion in accordance with Section 625.2 of the Selective Service Regulations (2nd edition) then you should acquit the defendant.

"Based on Johnson v. U. S. 126 F. (2nd) 242, etc."

[29]

Defendant's Proposed Instruction No. 3:

"If you find or have reasonable doubt as to whether the draft board failed to consider or investigate in the manner required by Opinion No. 14 of the National Director of Selective Service whether the defendant stood in his relationship to the members of the Society of Jehovah's Witnesses in the same relationship as a regular minister of other religions, then you should acquit the defendant.

"Foregoing Based on Section 5 (g) of the Selective Training and Service Act of 1940; Opinion No. 14 of the National Director of Selective Service."

EXCEPTION NO. 8

At the conclusion of the Court's instruction to the jury and prior to the retirement of the jury, the defendant requested the Court to give to the jury

defendant's proposed instruction number 1, which request being denied, defendant then and there entered an exception.

EXCEPTION NO. 9

Thereupon the defendant requested the Court to give to the jury defendant's proposed instruction number 2, which request being denied, defendant then and there entered an exception.

EXCEPTION NO. 10

Thereupon the defendant requested the Court to give to the jury defendant's proposed instruction number 3, which request being denied, defendant then and there entered an exception.

The matter was thereupon submitted to the jury, which retired for consideration and deliberation thereon and after deliberation thereon said jury returned to the courtroom with a verdict of guilty as charged.

The jury was thereupon excused and the matter continued at defendant's request until June 19, 1943.

Thereafter and on said date the Court proceeded to the [30] passing of judgment upon the defendant and on said date the Court imposed judgment and sentence as follows: That the defendant be confined to the penitentiary for a period of three years, the penitentiary to be designated by the Attorney General.

That the above Bill of Exceptions contain all of the evidence, oral and documentary, and all of the proceedings relating to the trial, conviction, motions

and judgment and sentence and all the instructions to the jury, and said defendant and appellant hereby presents the same as his Bill of Exceptions and asks that the same be allowed, signed and sealed and made a part of the record in this cause.

Dated: San Francisco, California.

July 20, 1943.

CLARENCE E. RUST

Attorney for defendant and
appellant

Receipt of a copy of the foregoing Bill of Exceptions admitted this 20th day of July, 1943

FRANK J. HENNESSY

United States Attorney

JOSEPH KARESH

Assistant U. S. Attorney [31]

[Title of District Court and Cause.]

STIPULATION RE BILL OF EXCEPTIONS

It is hereby stipulated and agreed by and between the respective parties hereto that the foregoing Bill of Exceptions on behalf of the above named defendant and appellant, George Robert Gutman, upon appeal herein to the Circuit Court of Appeals in and for the Ninth Circuit, has been duly presented within the time allowed by law, and the rules and orders of this Court, duly and regularly made in this behalf, and the same is in proper form and conforms to the truth, and that it may be settled, allowed, signed and

authenticated by this Court as the true Bill of Exceptions herein, on behalf of said defendant and appellant, and that it may be made a part of the record in this cause.

Dated: San Francisco, California,
August 5, 1943.

FRANK J. HENNESSY

United States Attorney

JOSEPH KARESH

Assistant United States At-
torney

Attorneys for plaintiff and
appellee

CLARENCE E. RUST

Attorney for defendant and
appellant. [32]

[Title of District Court and Cause:]

ORDER SETTLING AND ALLOWING BILL OF
EXCEPTIONS AND MAKING SAME PART
OF THE RECORD

The foregoing Bill of Exceptions, duly proposed by the above named appellant, George Robert Gutman, and duly agreed upon by the respective parties hereto, having been duly presented to the Court within the time allowed and required by law and by the rules and orders of this Court, duly and regularly made in that behalf, is hereby settled, allowed, signed and authenticated as in proper form and as conform-

ing to the truth and is the true Bill of Exceptions herein and is hereby made a part of the record in this cause.

Dated: San Francisco, Calif.

August 5th, 1943.

MICHAEL J. ROCHE

United States District Judge.

[33]

[Title of District Court and Cause.]

STIPULATION RE EXHIBITS

It is hereby stipulated and agreed by and between the attorneys for the United States and for defendant and appellant that all exhibits introduced in evidence, upon the trial of the above entitled cause now in custody of the Clerk of the Court, shall be made a part of, and be deemed to be included as a part of the foregoing Bill of Exceptions with the same effect in all respects as if incorporated in said Bill of Exceptions; that all of said exhibits be transmitted by the Clerk of this Court to the Circuit Court of Appeals for the Ninth Circuit as a portion of the record on appeal to be used in the Circuit Court of Appeals and subject to such orders as may be made in the Circuit Court of Appeals relative to the printing of the same or portions thereof.

Dated: San Francisco, California.

August 5, 1943.

FRANK J. HENNESSY

United States Attorney

JOSEPH KARESH

Assistant United States At-
torney, Attorneys for plain-
tiff and appellee.

CLARENCE E. RUST

Attorney for defendant and
appellant. [34]

ORDER FOR TRANSFER OF ORIGINAL EX-
HIBITS TO CIRCUIT COURT OF APPEALS

Upon reading the foregoing stipulation, and it ap-
pearing to the Court that an appeal having been
taken in this cause to the Circuit Court of Appeals
for the Ninth Circuit, and good cause appearing
therefor,

It Is Ordered that the foregoing exhibits be trans-
mitted by the Clerk of this Court to the Circuit
Court of Appeals for the Ninth Circuit pursuant to
and in accordance with the terms of the foregoing
stipulation relative to said exhibits.

Dated: San Francisco, California.

August 5th, 1943.

MICHAEL J. ROCHE

United States District Judge.

Lodged 7-20-43

[Endorsed]: Filed Aug. 5, 1943 [35]

[Title of District Court and Cause.]

ASSIGNMENTS OF ERROR

George Robert Gutman, the defendant in the above entitled action and plaintiff on appeal herein, having appealed to the United States Circuit Court of Appeals in and for the Ninth Circuit from the judgment and sentence entered in the above entitled cause against him and said defendant having given notice of appeal as provided by law, now makes and files the following assignments of error herein, upon which he will rely for a reversal of said judgment and sentence upon appeal, and which errors and each of them are to the great detriment, injury and prejudice of said defendant and in violation of the rights conferred upon him by law and the defendant says that in the recorded proceedings of the above entitled cause upon the hearing and determination thereof, in the Southern Division of the United States District Court for the Northern District of California there is manifest error, in this:

I.

That the court erred in denying the motion of defendant for a directed verdict of acquittal on the ground that the evidence was insufficient as a matter of law to sustain a conviction, made [36] at the conclusion of the testimony on behalf of the United States in chief, and to which ruling of the Court the defendant duly and regularly excepted.

II.

That the Court erred in denying the motion of defendant for a directed verdict of acquittal on the ground that the evidence was insufficient as a matter of law to sustain a conviction, made at the conclusion of all the testimony and evidence in the case, and to which ruling of the Court the defendant duly and regularly excepted.

III.

That the Court erred in overruling defendant's objection to the following instruction of the Court to the jury, which objection was made immediately upon the completion of the Court's instructions to the jury and prior to the jury's retirement, and to the overruling of which objection, the defendant duly and regularly excepted:

"I instruct you that in Class I-A shall be placed every registrant who is found available for general military service, and such registrant shall be liable for induction into the armed forces of the United States."

IV.

That the Court erred in overruling defendant's objection to the following instruction of the Court to the jury, which objection was made immediately upon the completion of the Court's instructions to the jury and prior to the jury's retirement, and to the overruling of which objection, the defendant duly and regularly excepted:

"I instruct you that the Local Boards, under rules and regulations prescribed by the President.

shall have power, within their respective jurisdictions, to hear and determine, subject to the right of appeal to Appeal Boards therein authorized, all ques- [37] tions of claims with respect to inclusion for or exemption for deferment from training and service under the Selective Training and Service Act of 1940, as amended, of all individuals within the jurisdiction of such Local Board. The decision of such Local Board shall be final except where an appeal is authorized in accordance with such rules and regulations as the President may prescribe."

V.

That the Court erred in overruling defendant's objection to the following instruction of the Court to the jury, which objection was made immediately upon the completion of the Court's instructions to the jury and prior to the jury's retirement, and to the overruling of which objection, the defendant duly and regularly excepted.

"I instruct you that each Board of Appeals shall have jurisdiction to review any decision concerning classification of the registrant by any Local Board in the area of the Board of Appeals, provided such an appeal has been filed with the Local Board. Such appeal must be taken within 10 days after the date when the Local Board mails to the registrant notice of Classification, Form 57, and the decision of the Board of Appeals shall be final unless modified or reversed by the President".

VI.

That the Court erred in overruling defendant's objection to the following instruction of the Court to the jury, which objection was made immediately upon the completion of the Court's instructions to the jury and prior to the jury's retirement, and to the overruling of which objection, the defendant duly and regularly excepted:

"You as jurors are not to decide whether the defendant is or is not a minister of religion. What you are to determine is whether the defendant after classification intentionally ignored the Draft [38] Board's orders to report for induction".

VII.

That the Court erred in refusing defendant's request to give defendant's proposed instruction number 1 to the jury, and to the refusal of which the defendant duly and regularly excepted, and which proposed instruction read as follows:

"If you find that the defendant is a regular minister of religion in the Society of Jehovah's Witnesses, or if you have reasonable doubt as to whether the defendant was a regular minister in the Society of Jehovah's Witnesses, then you must acquit the defendant."

VIII.

That the Court erred in refusing defendant's request to give defendant's proposed instruction number 2 to the jury, and to the refusal of which

the defendant duly and regularly excepted and which proposed instruction read as follows:

“If you find or have reasonable doubt as to whether the draft board acted arbitrarily and capriciously and failed to accord the defendant a hearing upon his application for deferment as a regular minister of religion in accordance with Section 625.2 of the Selective Service Regulations (2nd edition) then you should acquit the defendant”.

IX.

That the Court erred in refusing defendant's request to give defendant's proposed instruction number 3 to the jury and to the refusal of which the defendant duly and regularly excepted, and which proposed instruction read as follows:

“If you find or have reasonable doubt as to whether the draft board failed to consider or investigate in the manner required by Opinion No. 14 of the National Director of Selective Service whether the defendant stood in his relationship to the members of the Society of Jehovah's Witnesses in the same relationship as a [39] regular minister of other religions, then you should acquit the defendant”.

Dated: August 2, 1943.

CLARENCE E. RUST

Attorney for appellant

Receipt of a copy of above Assignments of Error
admitted this this 5th day of August, 1943.

FRANK J. HENNESSY

United States Attorney

JOSEPH KARESH

Assistant U. S. Attorney

Attorneys for appellee.

[Endorsed]: Filed Aug. 5, 1943. [40]

[Title of Court and Cause.]

PRAECIPE

To the Clerk of the District Court of the United
States for the Northern District of California:

Please prepare transcript on appeal in this cause
and include therein the following:

- 1 Indictment
- 2 Minutes of June 10, 1943, showing plea of
“Not Guilty”
- 3 Minutes of June 19, 1943, showing judgment
and sentence
- 4 Notice of Appeal
- 6 Bill of Exceptions
- 7 Assignments of error.

Dated: August 17, 1943

CLARENCE E. RUST

Attorney for defendant and
appellant.

Receipt of a copy of above admitted this 17th day of August, 1943.

FRANK J. HENNESSY

U. S. Attorney, for appellee

Per T. S.

[Endorsed] Filed Aug. 17, 1943. [41]

District Court of the United States
Northern District of California

CERTIFICATE OF CLERK TO TRANSCRIPT
OF RECORD ON APPEAL

I, C. W. Calbreath, Clerk of the District Court of the United States, for the Northern District of California, do hereby certify that the foregoing 41 pages, numbered from 1 to 41, inclusive, contain a full, true, and correct transcript of the records and proceedings in the case of The United States of America vs. George Robert Gutman No. 28001 R, as the same now remain on file and of record in my office.

I further certify that the cost of preparing and certifying the foregoing transcript of record on appeal is the sum of \$3.65 and that the said amount has been paid to me by the Attorney for the appellant herein.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said District Court

at San Francisco, California, this 3rd day of November, A. D. 1943.

[Seal]

C. W. CALBREATH,

Clerk

M. E. VANBUREN,

Deputy Clerk [42]

[Endorsed]: No. 10488. United States Circuit Court of Appeals for the Ninth Circuit. George Robert Gutman, appellant, vs. United States of America, Appellee. Transcript of Record. Upon Appeal from the District Court of the United States for the Northern District of California Southern Division.

Filed November 12, 1943.

PAUL P. O'BRIEN

Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

In the United States Circuit Court of Appeals for
the Ninth Judicial Circuit.

No. 10,488

GEORGE ROBERT GUTMAN,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

STATEMENT OF POINTS AND DESIGNA-
TION OF PARTS OF RECORD TO BE
PRINTED

I, George Robert Gutman, defendant and appellant in the above-entitled action, hereby files herewith the following statement of the points upon which he intends to rely upon this appeal and herewith designates the part of the record which he thinks necessary for the consideration thereof.

STATEMENT OF POINTS UPON WHICH HE
INTENDS TO RELY

All of the points as set forth in appellant's Assignments of Error appearing in the transcript of record herein, which Assignments of Error are hereby adopted as the points upon which appellant intends to rely on this appeal.

PARTS OF RECORD NECESSARY FOR CON-
SIDERATION OF APPEAL

Appellant designates the entire record filed in this Court as necessary for a proper consideration of the appeal and designates the entire transcript as necessary to be printed.

Dated: November 18, 1943.

CLARENCE E. RUST

Attorney for appeallant

Receipt of copy of above admitted this 18th day of Nov., 1943.

FRANK J. HENNESSY

U. S. Atty.

[Endorsed]: Filed Nov. 18, 1943. Paul P. O'Brien, Clerk.

